

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.4491 of 2013 and
M.P.No.1 of 2013

Jaibunnisa

.. Petitioner

-vs-

The Assistant Executive Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited, Bommidi,
Dharmapuri District-635 301. ... Respondent

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Certiorari, calling for the records relating to the order passed
by the respondent in Reference No.AEE/O&M/Pommidi/Electricity
Theft/E.Ma.U.No.011/2012-2013 dated 18.4.2012 and quash the same
as illegal and against the principles of natural justice.

For Petitioner: Mr.J.Dileepan

For Respondent: Mr.M.Varunkumar,
Standing Counsel

ORDER

Challenging the impugned order dated 18.4.2012 calling
upon Mrs.Jaibunnisa, W/o.Mr.Kamal Basha to pay a sum of
Rs.1,78,115/- on the premise that the electricity supply to her
land was stolen, the present Writ Petition has been filed.

2. Learned Counsel for the petitioner submitted that
the petitioner is the owner of the agricultural land bearing
S.No.278/1 situated in Kukkalmalai Village, Dharmapuri District.
In the Well situated therein, there is a submersible electrical
motor installed connected with free electricity service
connection No.13/TF IV CL 5HP. The petitioner is settled in
Dharmapuri along with her sister who is looking after her
personal needs. Since the land is a paddy field except a small

piece of land other areas were being cultivated and small part of the land was let out to a nearby land owner who used it for his brick manufacturing by setting up kiln in the land.

3. The learned Counsel for the petitioner further submitted that while so, on 03.12.2012, when the petitioner's son Shasakha visited the village, he was served with a photo copy of the order dated 18.4.2012 by the local line man stating that there was an usage of electricity meant for agricultural purpose in the brick kiln established in her land and the water available in her well was pumped through the motor and filled up in the tubs available and thereafter, they were used for manufacturing the bricks. Therefore, the petitioner was imposed a penalty of Rs.1,78,115/-. It is also stated that a sum of Rs.16,000/- towards compounding charges was already paid to the respondent. Thereafter, the petitioner met the respondent and collected the copies of other papers from his Office and only from the said meeting, the petitioner came to know about the details of the case of the respondent for his demand of Rs.1,78,115/- was for theft of electricity. According to the petitioner, she is nowhere connected for the alleged theft of electricity, but, it is only her neighbour, who is responsible for the same. Hence, the petitioner has advised to come to this Court with the present Writ Petition.

4. The learned Counsel for the petitioner also submitted that when it is an admitted case that there was an inspection on 03.12.2012 in which it was found that there was a theft of electricity, a provisional assessment order was made and a copy thereof was also served on one Alagesan allegedly shown as the enjoyer and the petitioner also gave her objections on the provisional assessment and after considering it a final order was passed on 18.4.2012. When the petitioner is no way concerned or connected and he is a third party to the theft of electricity for the reason that the other person, namely, Alagesan, the enjoyer has paid the compounding fee of Rs.16,000/-, the respondent Electricity Department should proceed only against the real thief who committed the theft of electricity and not against her, it is pleaded.

5. Heard the learned Standing Counsel appearing for the respondent.

6. This Court is unable to find any merit on the submission of the learned Counsel for the petitioner for the reason that when the petitioner clearly admits that one Alagesan is her neighbour who committed theft of electricity, after receiving the impugned order demanding the payment of

Rs.1,78,115/- on the ground that they have admitted the theft of electricity by paying Rs.16,000/- as a compounding fee, the petitioner either should have booked a case or at least given a complaint against the said Alagesan or come forward to pay the money demanded. In this case neither of the two things have been done by the petitioner. This Court also had given few opportunities to bring the enjoyer by way of impleadment, but the petitioner failed to implead the enjoyer that shows that the petitioner goes in collusion with the thief who stole the electricity. Therefore, this Court is unable to find any merit in the case of the petitioner.

7. In the result, the Writ Petition fails and the same is accordingly dismissed with a cost of Rs.10,000/- (Rupees Ten Thousand Only) to be payable by the petitioner to the Tamil Nadu State Legal Services Authority, High Court, Chennai, within a period of two weeks from the date of receipt of a copy of this Order.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

The Assistant Executive Engineer (O&M),
Tamil Nadu Generation and Distribution
Corporation Limited, Bommidi,
Dharmapuri District-635 301.

2.The Tamil Nadu State Legal Services Authority
High Court
Chennai

+1 cc to Mr.M.Varunkumar Advocate sr98248

W.P. No.4491 of 2013

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