

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.22119 of 2018

M.Anandarajan

..Petitioner

-vs-

The Assistant Executive Engineer (O&M),
Tamil Nadu Electricity Board,
Tamil Nadu Generation and
Electricity Distribution Corporation Ltd.,
Kanjapur, Villupuram District.

...Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the respondent to restore the petitioner's electricity service connection in S.C. No.02-414-003-512.

For Petitioner :: Mr.C.Prakasam

For Respondent :: Mr.M.Varunkumar,
Standing Counsel

ORDER

The petitioner has come to this Court seeking a direction to the Assistant Executive Engineer (O&M), Tamil Nadu Electricity Board, the respondent herein to restore the electricity service connection in S.C. No.02-414-003-512.

2.According to the learned counsel for the petitioner, the petitioner, after obtaining electricity service connection in S.C. No.02-414-003-512 for running ice cream parlour, has been paying electricity service charges without any arrears till date. Learned counsel appearing for the petitioner would submit that one Selvam, who is the petitioner's brother, has owned land and agricultural service connection in S.C. No.101, executed a Gift Deed in favour of petitioner's son, before his expiry. While so, on 13.02.2018, the respondent came to petitioner's son's land and insisted him to pay Rs.45,204/- and received Rs.10,000/- as part amount of the penalty stating that his son misusing the agricultural service connection by drawing the water to his manufacturing cooking coal unit. When the said building situated one kilometer away from the said land and the petitioner's son never used the said land for any commercial purpose and no water is required for running the said business, the respondent disconnected the service connection in S.C. No.512 without giving any notice whatsoever, which is illegal

and arbitrary.

3.Learned counsel appearing for the petitioner would further submit that if a mistake committed by the petitioner's son in S.C. No.101, it is always open to the respondent to disconnect the service connection. When the petitioner has been paying the electricity service charges without any arrears, the respondents cannot proceed against the petitioner in S.C. No.512. Therefore, the learned counsel for the petitioner prays for the above direction.

4.By filing a counter affidavit, the learned Standing Counsel appearing for the respondent would submit that the petitioner has been using the agricultural service connection No.101, which stands in his brother's name, who died long back. However, the petitioner has misused the agricultural service connection for commercial purpose and the same was found on 13.02.2018 and to avoid the prosecution, the petitioner has paid Rs.1,000/- as compounding fee on the same day. Thereafter, a Provisional Assessment Order dated 13.02.2018 under Section 135/138 of the Electricity Act, 2003 was issued to the petitioner calling upon him to file objection, if any. Since no objection was received from him, the same was confirmed and the petitioner was directed to pay a sum of Rs.45,204/-. As the petitioner has paid a sum of Rs.10,000/-, the balance amount of Rs.35,204/- remains un-paid to the Electricity Board.

5.Learned Standing Counsel would further submit that as per the provision of the Electricity Act and Regulation, the said amount was added to the account of his another electricity service No.512 pertaining to the month of April 2018. However, the petitioner has paid only CC charges pertaining to S.C. No.512, but failed to pay the arrears amount and therefore, the S.C. No.512 was disconnected on 29.06.2018 for non-payment of the amount.

6.In this regard, learned Standing Counsel, referring to Rule 17(8) of the Tamil Nadu Electricity Supply Code, would submit that where any consumer has more than one service connection, if he defaults in the payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid. In the present case, as the petitioner has been enjoying the service connection in S.C. No.101 after the death of his brother, he is bound to pay the said amount. 7.At the outset, it is relevant to extract Rule 17(8) of the Tamil Nadu Electricity Supply code, which is quoted below:

'Where any consumer has more than one service connection, if he defaults, in the payment of dues

relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till all the arrears due for all the service connections are paid, notwithstanding the fact that the service connections are covered under separate agreements.'

8.A perusal of the above clearly shows that where any consumer has more than one service connection in his name and if he defaults in the payment of dues relating to any one of the service connections, then the licensee may cause disconnection to any of the service connection. But, in the present case, the petitioner is not having more than one service connection.

9.When it is the case of the respondent that the petitioner has misused the agricultural service connection for commercial purpose in S.C. No.101 and the same was detected by them on 13.02.2018, they ought not to have disconnected the service connection in S.C. No.512. As the two service connections viz. S.C. Nos.101 and 512 are standing in the name of two individuals, Clause 17(8) of the Tamil Nadu Electricity Supply Code cannot be pressed into service. Accordingly, the writ petition is allowed and the respondent is directed to restore the petitioner's electricity service connection in S.C. No.02-414-003-512. No costs.

10.It is made clear that since the respondent has already taken action disconnecting the S.C. No.512, they need not disconnect service connection in respect of S.C. No.101.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vga

To

The Assistant Executive Engineer (O&M),
Tamil Nadu Electricity Board,
Tamil Nadu Generation and
Electricity Distribution Corporation Ltd.,
Kanjapur, Villupuram District.

+1cc to Mr.M.Varunkumar, Advocate, S.R.No.13775

+1cc to Mr.C.Prakasam, Advocate, S.R.No.13809 (29/03/2019)

W.P. No.22119 of 2018

RSV(CO)

rrs 14/03/2019