

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :21.01.2019

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.30895 of 2018

Mrs.Saraswathy

..Petitioner

vs

- 1.The Assistant Executive Engineer(O&M)
Tamilnadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO)
Thirumanur - 621 715
Ariyalur District.
- 2.The Assistant Electrical Engineer(O&M)
Tamilnadu Generation and
Distribution Corporation
(TANGEDCO)
Thirumanur - 621 715
Ariyalur District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders passed by the second respondent in Letter No.A.E.E/O&M/Thirumanur/Northwest/Ko.1/165A.No dated 10.10.2018 and quash the same and consequently direct the respondents to consider the change of the commercial tariff (LM-51) into domestic tariff(LA-IA) in SC NO 06-309-016-389 relating to Door No.44, South Street, Thirumanur - 621 715, Ariyalur District without insisting the consent from the other co-owners.

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.P.Gunaraj, Standing counsel
for Tamil Nadu Electricity Board(TNEB)

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O R D E R

The order of rejection issued by the respondent in proceedings dated 10.10.2018 in respect of the claim of the writ petitioner for conversion of commercial tariff as domestic tariff is under challenge in the present writ petition.

2.The learned counsel for the writ petitioner submits that initially the property in question was leased out to the Government office and a commercial tariff was being paid by the

tenants. Now, the commercial occupation was vacated and the writ petitioner has occupied the premises and using it as a residential premises. In view of the fact that the writ petitioner is in occupation and the family is residing in the premises, an application was made to the respondents for conversion of tariff from commercial to domestic. However, the said application submitted by the writ petitioner has been rejected on the ground that the petitioner has to obtain no objection from the other legal heirs.

3.The learned counsel for the petitioner states that a suit for Partition is pending before the competent Civil Court of law and the other legal heirs may not give consent to the writ petitioner for conversion of tariff from commercial to domestic and in the event of non-conversion, the interest of the writ petitioner would be prejudiced and she will be forced to pay the commercial tariff unnecessarily despite the fact that she is using only domestic service connection.

4.This Court is of an opinion that when the petitioner is able to establish that there is no commercial activity in the premises and the premises in question which being under use for residential purposes, the authorities competent on inspection, has to convert the tariff even as per the Board Regulations.

5.The Counter Affidavit filed by the Assistant Engineer (Operation and Maintenance), TANGEDCO, Thirumanur, categorically states that "Though the present occupation by the writ petitioner is for the domestic use by getting no objection from the other 3 legal heirs of Late Arjunan as per the provisions of the Tamil Nadu Electricity Supply Code and hence the above writ petition is not at all maintainable." It is admitted by the respondents that the premises in question is now being used as a domestic purpose and the writ petitioner is residing in the family. When the fact regarding the domestic usage of electricity service connection is admitted by the respondents, they are bound to convert the tariff from commercial to domestic by obtaining an Indemnity Bond if required as per the provisions of the Tamil Nadu Electricity Distribution Code or as per the provisions of the Tamil Nadu Electricity Supply Code.

6.In other words, in such circumstances, the Board is incompetent to enter into the arena of Civil disputes between the parties, it is left open to the parties to adjudicate all their title rights or other property rights before the competent Civil Court of law. As far as the Electricity Board is concerned, they are bound to get some Indemnity bond from the persons and convert the commercial tariff to domestic tariff and in this view of the matter, the case of the writ petitioner deserves consideration.

7. Accordingly, the impugned order passed by the 2nd respondent in Letter No.A.E.E/O&M/Thirumanur/Northwest/Ko.1/165A. No dated 10.10.2018 is quashed and the respondents are directed to convert the commercial tariff as domestic tariff in respect of the service connection provided in the residential premises of the writ petitioner and accordingly, raise the demand for the consumption of electricity by the petitioner in accordance with the regulations without any delay.

8. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Deputy Registrar

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Sub Assistant Registrar

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To

1. The Assistant Executive Engineer (O&M)
Tamilnadu Generation and
Distribution Corporation Ltd.,
(TANGEDCO)
Thirumanur - 621 715
Ariyalur District.
2. The Assistant Electrical Engineer (O&M)
Tamilnadu Generation and
Distribution Corporation
(TANGEDCO)
Thirumanur - 621 715
Ariyalur District.

+1cc to Mr.S.Kamadevan, Advocate, S.R.No.4236
+1cc to Mr.P.Gunaraj, Advocate, S.R.No.4319

W.P.No.30895 of 2018

rrs 11/02/2019

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