

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15154 of 2012
and
M.P.No.1 of 2012

Mr.Venkatachalapathy

.. Petitioner

-vs-

1. Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Dharmapuri.
2. Assistant Engineer (O&M),
Dharmapuri-West,
Tamil Nadu Electricity Board,
Dharmapuri.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent in reference No. Ka.No.U.Se.Po/E.Pa/Na/Tharma/Ko:Electricity theft/No.038/2012 dated 4th June, 2012 and quash the same and thereby direct the 2nd respondent to restore the electricity connection bearing No.002-001-3960 in Railway station circle, Dharmapuri to the petitioner's premise bearing No.3A, Bye pass road, Dharmapuri subject to any condition that may be imposed by this Court.

For Petitioner : Mr.J.Deliban
For Respondents : Mr.M.Varunkumar

ORDER

Heard Mr.J.Deliban, learned counsel for the petitioner and Mr.M.Varunkumar, learned counsel for the respondents.

2.The petitioner challenges the final assessment order passed by the 2nd respondent dated 04.06.2012, wherein there is a theft of electricity by the petitioner. The theft alleged is

not the usual case, where there is illegal extraction of energy, but the allegation is that the petitioner obtained service connection in respect of the ground floor and in the first and second floor, for the construction activity, without obtaining temporary power supply, from the connection granted for the ground floor, electricity was drawn and utilized.

3.The petitioner would state that no construction activity took place in the first and second floor, as the construction activity is already over and it is the petitioner's own building and there are documents to establish that the construction was completed much prior to the date of inspection and in fact, the entire property is subject matter of mortgage before the Bank for availing loan.

4.It is seen that for the provisional notice issued by the 2nd respondent, the petitioner has given objection and the objection was considered and the proposal made in the provisional notice was reduced and a sum of Rs.21,330/- has been demanded.

5.If the petitioner is able to establish that he did not use electricity from the existing service connection for any construction activity in the first and second floor, then a lenient view in this matter can be taken, because, the petitioner has been granted service connection for the ground floor of the premises. For such reason, the petitioner is directed to treat the impugned final assessment order as a show cause notice, give his objections enclosing proof to show that on the date of inspection, the building had already been constructed and was in existence. Subject to producing adequate proof of the said fact, the 2nd respondent is directed to reconsider the matter and pass fresh orders of assessment in accordance with law.

6.With the above observations and directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Dharmapuri.

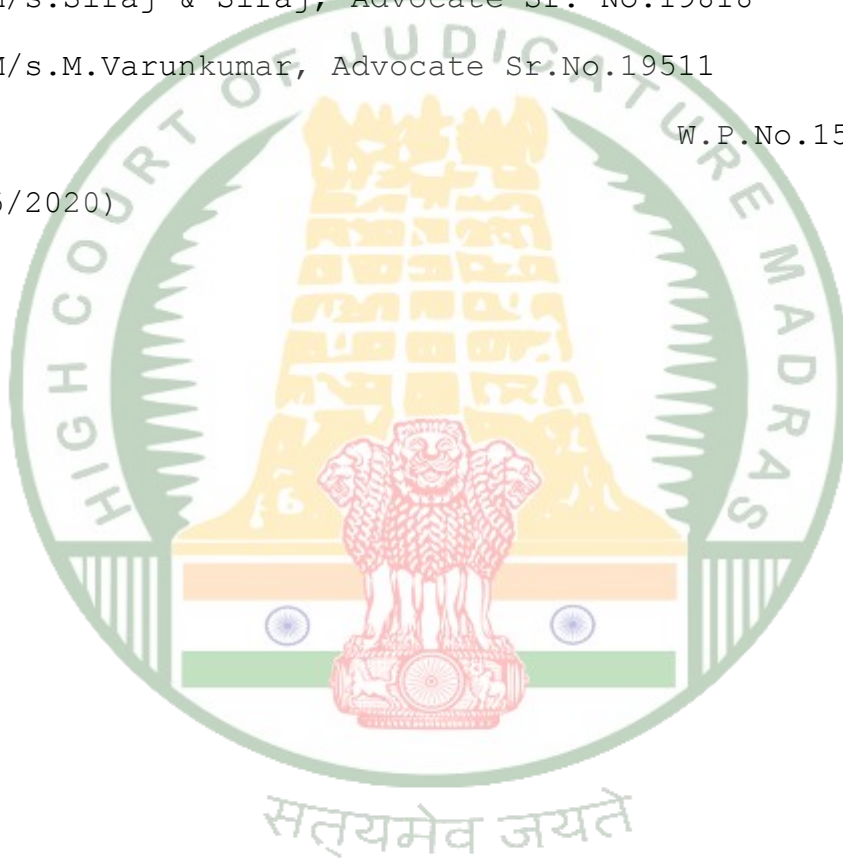
2.The Assistant Engineer (O&M),
Dharmapuri-West,
Tamil Nadu Electricity Board,
Dharmapuri.

+1 CC to M/s.Siraj & Siraj, Advocate Sr. No.19818

+1 CC to M/s.M.Varunkumar, Advocate Sr.No.19511

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CNR (CO)
RPP (21/05/2020)



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