

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15654 of 2012  
and M.P.No.1 of 2012

T.Ramasamy

...Petitioner

vs.

1. The Chairman,  
Tamilnadu Generation and Distribution  
Corporation (TANGEDCO),  
144, Anna Salai,  
Chennai - 600 002.
2. The Executive Engineer,  
TANGEDCO/TNEB,  
Gobi Electricity Distribution Circle,  
Sathyamangalam,  
Erode.
3. The Assistant Executive Engineer,  
TANGEDCO/TNEB,  
Gobi Electricity Distribution Circle,  
Sathyamangalam,  
Erode.
4. The Junior Engineer,  
TANGEDCO/TNEB,  
Gobi Electricity Distribution Circle,  
Punjai Puliampatti - 638 459.

...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 4<sup>th</sup> respondent in Lr.No.JE/O & M/P.Patti/F.Audit/No-12-13 dated 28.05.2012 (in Tamil) so far as it relates to levy of average short assessment of Rs.1,87,525/- which as illegal, arbitrary without authority of law and quash the same.

For Petitioner  
For Respondents

: Mr.S.Sairaman  
: Mr.M.Vijayameghanath for R1 to  
R4 for M/s.N.Dhamodharan

## O R D E R

Heard Mr.S.Sairaman, learned counsel for the petitioner and Mr.M.Vijayameghanath, learned standing counsel appearing for the respondents.

2.The petitioner was granted an electricity service connection to his premises. He is aggrieved by the demand issued by the 4<sup>th</sup> respondent which is based upon an audit objection, wherein, the respondent/Electricity Board has demanded average short assessment to the tune of Rs.1,87,525/-.

3.The allegation against the petitioner is that the Field Officer did not immediately notice the defective meter from the assessment period April 2009 and the defective meter was removed and new meter was fixed on 08.12.2010. Therefore, for the period from April 2009 to December 2010, the respondent/Electricity Board has calculated the average consumption at the rate of 5675 units and issued the demand.

4.The petitioner's case is that there was a tenant in the property and as of April 2009, he had vacated the premises and no manufacturing activity was done. The petitioner would state that an intimation in this regard was given by the petitioner on 20.04.2009 to the third respondent. The petitioner would further state that an application was filed before the Electricity Consumer Redressal Forum and without passing any orders, the impugned demand has been issued by the third respondent, wherein, there is a reference stating that the petition before the Electricity Consumer Redressal Forum has been rejected.

5.In the considered view of this Court, unless and until, the petitioner establishes that he had intimated the Board about the commencement of lease and the termination of lease in April 2009 by producing records, it will be very difficult for the petitioner to prove his claim. The burden of proof that the tenant did not carry on any manufacturing activity beyond April 2009 is on the petitioner. Therefore, this being the factual issue, the same should be agitated by the petitioner before the appropriate Forum and the writ petition is not the remedy.

6.From the counter affidavit filed by the third respondent, it is seen that the petitioner has paid a sum of Rs.37,040/-, and on receipt of the payment, the electricity service connection was reconnected on 09.01.2012. Therefore, the service connection can remain reconnected till the petitioner approaches the Appellate Authority and decision is rendered by the Appellate Authority.

7. For the above reason, this writ petition is disposed of by directing the petitioner to file an appeal before the Appellate Authority viz, the Superintending Engineer, TANGEDCO/TNEB, Erode Electrical Distribution Circle, Erode, within 15 days from the date of receipt of a copy of this order. If the petitioner avails such remedy, the Superintending Engineer shall dispose of the appeal petition after affording an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law within a period of six weeks from the date on which, the personal hearing is concluded. Till then, no coercive action shall be initiated against the petitioner nor any discontinuance of service connection be done and further action shall be abide by the orders to be passed by the Superintending Engineer. Since the Appellate Authority is not a party to this writ petition, Registry is directed to mark a copy of this order to the Superintending Engineer, TANGEDCO/TNEB, Erode Electricity Distribution Circle, Erode. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

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Gobi Electricity Distribution Circle,  
Punjai Puliampatti - 638 459.

5. The Superintending Engineer,  
TANGEDCO/TNEB,  
Erode Electricity Distribution Circle,  
Erode.

+1cc to Mr.S.Sairaman, Advocate, S.R.No.22258

W.P.No.15654 of 2012

PVS (CO)  
KKV/12/06/2020



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