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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

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

W.P.No.26036 of 2012 &
M.P. No.1 of 2012 &
W.M.P.No.21899 of 2018

C.Balusamy

..Petitioner

vs.

1. The Assistant Engineer,
Operation & Maintenance,
Tamilnadu Electricity Generation
And Distribution Corporation,
Tamilnadu Electricity Board,
Dasavanaickenpatti,
Erode District.

2. The Assistant Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Vellakovil - 638 111,
Erode District.

3.T.Karuthapandiyan
(R3 impleaded as per order
dated 08.01.2013 by this Court
in MP.2/12)

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the impugned order dated 12.08.2011 made in Lr.No.AEE/O & M/D.N.Patti/file Lr.No.173/11-12 passed by the 1st respondent, quash the same and consequently direct the respondents to sanction additional load of 20 H.P., to petitioner's Electricity Service Connection bearing S.C.No.901 situate at 14/36, Pachagoundenvalasu, Vellakoil, Kangayam Taluk, Tiruppur District by considering the application dated 07.07.2011 and representation dated 23.07.2011.

For Petitioner : Mr.N.Manokaran
Assisted by Mr.R.Vinothraja

For Respondents : Mr.N.Dhamodharan



O R D E R

Heard Mr.N.Manokaran, assisted by Mr.R.Vinothraja learned counsel for the petitioner and Mr.N.Dhamodharan, learned standing counsel appearing on behalf of the respondents.

2. The petitioner has challenged the demand issued by the first respondent dated 12.08.2011 and for consequential directions to the respondents to sanction additional load of 20 H.P. to his Electricity Service Connection by considering the application dated 07.07.2011 followed by representation dated 23.07.2011.

3. The petitioner had challenged the demand by filing the suit in O.S.No.166 of 2006 on the file of the District Munsif Court, Kangeyam, Erode District. The suit was decreed as prayed for by Judgment and Decree dated 06.12.2010 and the demand dated 07.01.2006 was set aside. The respondent board has stated that the respondents have filed an appeal before the Sub Court, Dharapuram along with delay and after filing the appeal once again, the respondent board attempted to insist upon the payment of the amount demanded in the notice dated 07.01.2006 which was already set aside by the Civil Court. This was because the petitioner applied for additional load of electricity. Ultimately the appeal filed by the respondent board as against the judgment and decree passed in O.S.No.156 of 2006 has been dismissed. However, the appeal number nor the date of the judgment is readily available with the learned counsel appearing on either side.

4. Learned standing counsel appearing for the respondents 1 and 2 on instructions submits that a second appeal has been preferred before this Court but the appeal number nor the judgment has been furnished.

5. Therefore this Court is of the considered view that the judgment and decree passed in O.S.No.156 of 2006 dated 06.12.2010 has attained finality as of now. Therefore, the respondents cannot insist upon the payment of amount as demanded in the notice dated 07.01.2006 as a precondition for considering the application for additional load of Electricity. Therefore, the impugned order to that extent needs to be set aside.

6. In the result, the writ petition is allowed and the impugned order dated 12.08.2011 made in Lr.No.AEE/O & M/D.N.Patti/file Lr.No.173/11-12 passed by the 1st respondent is set aside for the reasons stated above and the respondents are directed to consider the petitioner's application for grant of additional load of electricity dated 07.07.2011 if not already



considered. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Engineer,
Operation & Maintenance,
Tamilnadu Electricity Generation
And Distribution Corporation,
Tamilnadu Electricity Board,
Dasavanaickenpatti,
Erode District.
2. The Assistant Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Vellakovil - 638 111,
Erode District.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.20932

W.P.No.26036 of 2012

NRJK(C0)
KKV/14/07/2020