

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.20148 of 2014  
and  
M.P.No.1 of 2014

P.Sampath

... Petitioner

- Vs -

1. The Superintending Engineer,  
Thiruvanamalai Electricity distribution Circle,  
TANGEDCO, Thiruvanamalai-4.
2. The Executive Engineer, (O & M) /  
Thiruvanamalai Electricity distribution circle,  
TANGEDCO, Arani, Thiruvanamalai District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorari, to call for the records in proceedings Ku.Aa.No.100E.E./O & M /Arani. / Adm/U.3 /Loo.thannikai /2014 dated 22.07.2014 on the file of the 2<sup>nd</sup> respondent herein and quash the same.

For Petitioners : M/S.B.Manoharan  
For Respondents : Mr.Fakkir Mohideen

ORDER

When the matter is taken up for hearing, learned counsel for the petitioner on instructions submits that during the pendency of the writ petition, the petitioner passed away. While he was in service of the respondents Electricity Board, a recovery order was passed on the deceased petitioner. Challenging the impugned recovery order, this writ petition was filed. It is further pointed out that the impugned order was passed without issuing any notice on the deceased petitioner and, therefore, the impugned order is liable to be set aside on the ground of violation of principle of natural justice.

2.Learned counsel appearing for the respondent, filed a counter affidavit today and fairly conceded that there was no opportunity given to the petitioner, before passing the impugned

recovery order.

3. Admittedly, before passing the recovery order, opportunity should be given by issuing notice and thereafter only any order can be passed. However, admittedly, in the present case the respondent passed the impugned recovery order, without issuing any notice on the petitioner. In such circumstances, the impugned order is liable to be set aside for violation of principles of natural justice.

4. Accordingly, the recovery order passed by the 2<sup>nd</sup> respondent in proceedings Ku.Aa.No.100E.E./O & M /Arani. /Adm/U.3 /Loo.thannikai /2014 dated 22.07.2014, is hereby set-aside.

5. However, in view of the fact that the petitioner died pending the writ petition, and the recovery order having been set aside, no further orders are required to be passed in this petition and, accordingly, this petition is closed. Consequently connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs  
To

1. The Superintending Engineer,  
Thiruvanamalai Electricity distribution Circle,  
TANGEDCO, Thiruvanamalai-4.
2. The Executive Engineer, (O & M) /  
Thiruvanamalai Electricity distribution circle,  
TANGEDCO, Arani, Thiruvanamalai District.

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SSD(CO)  
RMP(03/02/2021)