

In the High Court of Judicature at Madras

Dated : 02.3.2020

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The Honourable Mr. Justice T.S. SIVAGNANAM

Writ Petition No. 21263 of 2014 &
MP.No.1 of 2014 & WMP.No.16272 of 2017

S.P. Pakir Mohideen

...Petitioner

Vs.

1. The Chairman and Managing Director, TANGEDCO, 144, Anna Salai, Chennai-2.
2. The Assistant Executive Engineer (Distribution), Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO), Kovilpatti, Tuticorin District.
3. The Assistant Accounts Officer, Revenue Branch, O/o. The Executive Engineer (Distribution), Tamil Nadu Generation & Distribution Corporation Ltd. (TANGEDCO), Kayathar-628952. Tuticorin District.
4. M/s. S.S.S.V.M. Viswasan Thiagaraj Traders (Lessee and Enjoyer), North Vandanam Village, Kovilpatti Taluk, Tuticorin District Rep. by its Managing Partner S.S.V. Micheal Raj
5. The Assistant Executive Engineer Distribution TANGEDCO, Shanthi Colony, Anna Nagar East, Chennai-102. ...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the impugned Letter No. AEE/D/KYTR/F.Court Case/D.No.342/2014 dated 23.7.2014 of the 2nd respondent and quash the same.

For Petitioner : Mr.AR.L.Sundaresan, SC
for Mr.Seshadri
For Respondents 1to3&5 : Mr.S.K.Rameshwar
For Respondent-4 : Mr.C.Subramanian
for Mr.N.Raja Senthoo Pandian

ORDER

I have heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing on behalf of Mr.K.Seshadri, learned counsel on record for the petitioner, Mr.S.K.Rameshwar, learned Standing Counsel appearing for respondents 1 to 3 and 5 and Mr.C.Subramanian, learned counsel appearing on behalf of Mr.N. Raja Senthoo Pandian, learned counsel on record for the fourth respondent.

2. The petitioner has challenged the proceedings of the second respondent dated 23.7.2014. By the impugned communication, the petitioner has been directed to pay a sum of Rs.66,84,129/- being the final assessment, which has been computed for the allegation of theft of electrical energy in LT CT SC.No.306-002-007 by M/s.A.K.S.P.Spining Mill, Kadambur.

3. The petitioner challenged the original assessment order dated 14.7.2011 and the consequential notice of termination of agreement dated 26/27.12.2012 by filing two writ petitions namely W.P.(MD)Nos.9198 of 2011 and 2667 of 2013 respectively. It appears that interim orders were granted in those two writ petitions. However, the same were not extended. The present demand has been issued to the petitioner at the Chennai address calling upon him to pay the said amount, failing which, it was stated that the electricity service connection given to his residential premises at Chennai would be disconnected.

4. In fact, in paragraph 19 of the counter affidavit filed by the respondent Corporation, it has been stated that this writ petition should be transferred to the Madurai Bench of this Court so as to enable the Court to consider all the issues jointly.

5. When this writ petition was entertained, an interim order of stay of the impugned order was granted on 08.8.2014 subject to the condition that the petitioner should deposit a sum of Rs.5 lakhs within a time frame. The petitioner complied with that condition and the petitioner's domestic service connection at Chennai in the address given in the petition has not been disconnected till date.

6. In the considered view of this Court, since the substantial issue is pending before the Madurai Bench of this Court, the same has to be adjudicated in the said two writ petitions.

7. The case of the petitioner is that he had leased out the spinning mill to the fourth respondent and it is alleged that when the fourth respondent was in possession and enjoyment of the premises, the allegation of theft of energy cropped up and a criminal case has been registered against the fourth respondent, in which, the petitioner has also been arrayed as a co-accused.

8. The question to be decided in the said two writ petitions, which are pending before the Madurai Bench of this Court, is with regard to applicability of Regulations 17 and 27 (1) of the Tamil Nadu Electricity Supply Code, which deal with the issues of recovery of charges.

9. It is the argument of the learned Senior Counsel appearing on behalf of the petitioner that the said Regulations would be applicable only in cases where the respondent - Corporation is unaware about the person, who had committed theft of electrical energy. But, in the instant case, the respondent - Corporation is fully aware as to who had committed theft of energy and precisely for such a reason, a criminal case has been filed against the fourth respondent.

10. Per contra, the learned Standing Counsel appearing for the respondent - Corporation would rely upon the definition of the word 'consumer' as defined under Section 2(15) of the Electricity Act, 2003 and submits that the petitioner would clearly fall within the definition of the word 'consumer' and therefore, he is liable to pay the demand. Further, by referring to Regulations 17 and 27(1) of the Tamil Nadu Electricity Supply Code, it is submitted that the petitioner is liable to pay the amount demanded because the petitioner has not given any notice of his intent to lease out the premises to the Designated Authority of the respondent Corporation and that therefore, he cannot escape from the liability.

11. As pointed out earlier, the substantive cases are those writ petitions, which are pending before the Madurai Bench of this Court wherein the original assessment order dated 14.7.2011 and the consequential notice of termination of agreement dated 26/27.12.2012 have been challenged. Hence, all the issues have to be adjudicated in those writ petitions and it may not be necessary for this Court to transfer this writ petition to the Madurai Bench of this Court. But, this writ petition can be disposed of safeguarding the interest of both parties. Since the petitioner complied with the condition imposed by this Court in the order dated 08.8.2014, the said amount of Rs.5 lakhs shall continue to remain in deposit and the petitioner's domestic service connection at the Chennai address given in the petition shall not be disconnected and shall await the outcome of the said two writ petitions namely W.P.(MD)Nos.9198 of 2011 and 2667

of 2013, which are pending before the Madurai Bench of this Court. The amount of Rs.5 lakhs deposited by the petitioner pursuant to the interim order granted in this writ petition shall abide by the result of those two writ petitions pending before the Madurai Bench of this Court.

12. With the above observations, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The Chairman and Managing Director, TANGEDCO, 144, Anna Salai, Chennai-2.
- 2.The Assistant Executive Engineer (Distribution), Tamil nadu Generation and Distribution Corporation Ltd.(TANGEDCO), Kovilpatti, Tuticorin District.
- 3.The Assistant Accounts Officer, Revenue Branch, O/o.The Executive Engineer (Distribution), Tamil nadu Generation & Distribution Corporation Ltd. (TANGEDCO), Kayathar-628952. Tuticorin District.
- 4.The Assistant Executive Engineer, Distribution TANGEDCO, Shanthi Colony, Anna Nagar East, Chennai-102.

+1cc to Mr.K.Seshadri, Advocate, Sr.No.18087.

+1cc to Mr.S.K.Ramesh kumar, Advocate, Sr.No.17996.

+1cc to Mr.N.Raja Senthoo Pandian, Advocate, Sr.No.19159.

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