

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.18516 of 2020
and
W.M.P.No.22955 of 2020

E.Renganathan, (M/72)
S/o.Elumalai, No.4/280,
Kamarajar Salai,
Manjambakkam,
Chennai-600 060

... Petitioner

Vs.

1 The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep. by its Chairman and Managing Director,
10th Floor, No.144, Anna Salai,
Chennai-600 002.

2 The Assistant Engineer, O and M,
Vadaperumbakkam,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
CMBTT 33/11 KVS Campus,
CMBTT Complex,
Madhavaram,
Chennai-600 110

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in his proceedings in Ka.No. 239 UPo/vadperumbakkam/division/Ko.2 dated 17.08.2020 and quash the same and consequentially restore the electricity Service Connections bearing Nos. 020-004-37, 020-004-130 and 020-004-18 for the premises comprised in Survey No.4/202, situated at No.110, Erikarai Street, Manjambakkam, Chennai-600060.

For Petitioner : Mr.S.Sathish Rajan

For Respondents : Mr.P.R.Dilipkumar
Standing Counsel

ORDER

On consent given by either side, the main Writ Petition has been taken for final hearing.

2.This Writ Petition has been filed challenging the impugned order passed by the second respondent in his proceedings dated 17.08.2020 and for a consequential direction to restore the electricity service connection.

3.Heard Mr.S.Sathish Rajan, learned counsel appearing for the petitioner and Mr.P.R.Dilipkumar, learned standing counsel appearing for the respondents.

4.It is seen from the records that there were two industrial electricity service connections that was standing in the name of the petitioner. During a surprise inspection that was conducted by the Anti Power Theft Squad on 27.02.2020, it was found that there was unauthorized use of electricity. In other words, it was found that the industrial service connection was utilized for commercial water service usage. This unauthorized use of electricity was brought within the term theft of electricity.

5.Based on the finding of the Anti Power Theft Squad, a provisional assessment was made for both the service connections and the petitioner was directed to pay a sum of Rs.28,000/- and Rs.24,000/- respectively, towards the compounding fee and further, the petitioner was also directed to pay the provisional assessment of a total sum of Rs.5,10,163/-. Even though the compounding fee was paid by the petitioner, the provisional assessment amount was not paid and as a result of the same, the service connection was disconnected. Aggrieved by the same, the present Writ Petition has been filed before this Court.

6.The main grievance that has been expressed by the petitioner is that even without making a final adjudication under Section 143 of the Electricity Act, the second respondent has passed the impugned order and levied a provisional assessment of a sum of Rs.5,10,163/- and directed the petitioner to pay this amount within a period of 15 days. This according to the petitioner is on the face of it illegal and therefore, the second respondent ought not to have disconnected the electricity connection without passing the final assessment order.

7.In the considered view of this Court, what has been directed to be paid by the petitioner is only a provisional assessment and this will be subject to the final adjudication. In any case, even after the final adjudication, there will be

some amount that will be payable by the petitioner. Therefore, this Court does not find anything illegal on the second respondent, determining the amount as provisional assessment and further directing the petitioner to pay the said amount.

8. However, in order to balance the rights of the parties, this Writ Petition is disposed of with the following directions:

(a) The petitioner is directed to pay 50% of the provisional assessment amount determined by the second respondent as Rs.5,10,163/-.

(b) The petitioner is directed to pay 25% of the amount immediately and on such payment, the second respondent is directed to restore the service connection.

(c) The petitioner is directed to pay the balance 25% of the amount on or before 30.12.2020.

(d) If the petitioner fails to pay, the balance 25% of the amount as per the directions given by this Court, it is left open to the respondents to disconnect the service connection.

(e) If the petitioner complies with the orders passed by this Court and deposits 50% of the amount, there shall be a direction to the second respondent to complete the final adjudication in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

Consequently, connected Miscellaneous Petition is closed.
No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

pgp/sai

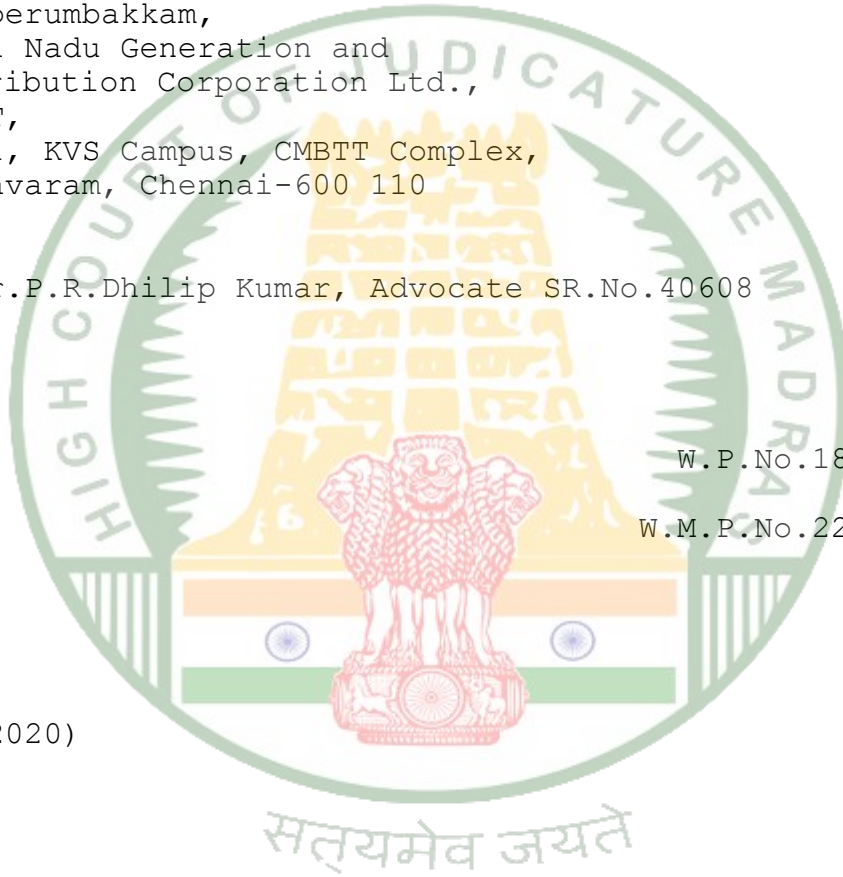
To

- 1 The Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep. by its Chairman and Managing Director,
10th Floor, No.144, Anna Salai,
Chennai-600 002.
- 2 The Assistant Engineer O and M,
Vadaperumbakkam,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
CMBTT,
33/11, KVS Campus, CMBTT Complex,
Madhavaram, Chennai-600 110

+1cc to Mr.P.R.Dhilip Kumar, Advocate SR.No.40608

W.P.No.18516 of 2020
and
W.M.P.No.22955 of 2020

(CO)
RN(18/12/2020)



WEB COPY