



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28785 of 2013
and
M.P.Nos.1 and 2 of 2013

S.Dhinakaran

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by the Chairman,
Tamil Nadu Electricity Board,
NPKRR Maaligai,
No.144, Anna Salai,
Chennai-2.

2. The Assistant Engineer,
O & M, Kolathur,
TANGEDCO/CEDC/North,
Chennai-82.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings in No. Nil and dated Nil with regard to Electricity A/c. No.075-028-1014 on the file of the Assistant Engineer O & M TANGEDCO/CEDC/ North, Chennai-82, the respondent No.2 and quash the same.

For Petitioner : Mr.M.T.Arunan
Assisted by
Ms.Shyamala Devi
Ms.Arunesh
Ms.R.Nandhini
Ms.R.Sangeetha

For Respondents: Mr.L.Jai Venkatesh
Standing Counsel for TANGEDCO

O R D E R

The Demand Notice issued by the 2nd respondent asking the petitioner to pay the erection charges for providing Electricity Service Connection is under challenge in the present writ petition.



2. The petitioner states that he purchased a flat through builders in the year 2002. The petitioner is in absolute possession and enjoyment of the Flat. The petitioner has paid the entire Flat cost and other incidental charges to the builders and accordingly, the Flat was handed over and the petitioner is in possession. While so, after a lapse of 11 years, the impugned Demand Notice is issued by the 2nd respondent asking the petitioner to pay the apartment service connection erection charges. Thus the petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner strenuously contended that the demand made after 11 years is improper and the petitioner is not liable to pay any such erection charges. The petitioner had already paid the entire flat cost including the incidental expenses to the builders and therefore, he is not liable to pay any further charges to the Electricity Board.

4. This Court is of the considered opinion, no doubt the petitioner would have purchased the Flat after paying the entire Flat cost including the other charges. However, it was an agreement between the builder and flat purchasers and what all are the payments collected by the builder and paid by the purchasers are in between them and unconnected with the Electricity Board Authorities. If at all the Electricity erection charges were already collected by the builder from the flat purchasers and not deposited with the Board, then it is for the Flat purchasers to verify the same and initiate appropriate steps to recover the money or pay the same through the builder. Contrarily, the Board Authorities cannot be restrained from issuing such demand notice for recovery of apartment service connection and erection charges.

5. This apart, the learned counsel for the petitioner reiterated that the fixed amount of Rs.15,000/- (Rupees Fifteen Thousand) demanded by the Board Authorities are also untenable as collection of such fixed charges are impermissible. The learned counsel for the petitioner relied on the judgment includes in the case of Tamil Nadu Flat Promoters Association Vs Tamil Nadu Electricity Board reported in [2000] 1 MLJ 539.

6. This Court is of the considered opinion that the demand notice issued is under challenge in the present writ petition. The liability of the petitioner cannot be determined in this writ petition as it requires an elaborate adjudication with reference to the documents and evidences made available. Thus, the parties have to produce their documents for the purpose of determining the charges to be paid and for resolving the issues. Such an elaborate adjudication cannot be undertaken by the High Court under Article 226 of the Constitution of India. The Tamil Nadu Electricity Supply Code provides mechanism for the



redressal of the grievances by the consumers and under Regulation 18, the petitioner has to approach the said Forum for resolving issues.

7. This being the appellate remedy available under the provision of the Tamil Nadu Electricity Supply Code, the petitioner is at liberty to approach the Consumer Grievances Redressal Forum constituted under Regulation 18 of the Tamil Nadu Electricity Supply Code for the purpose of redressal of his grievances by following the procedures as contemplated. In the event of the petitioner filing any such application, the Forum shall consider the period during which the writ petition was pending before the High Court for the purpose of condoning the delay, if any application to condone the delay is filed. All other issues raised between the parties are to be decided on merits and in accordance with law and by affording opportunity as expeditiously as possible.

8. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Jeni/Cse

To

1. The Chairman,
The State of Tamil Nadu
Tamil Nadu Electricity Board,
NPKRR Maaligai,
No.144, Anna Salai,
Chennai-2.

2. The Assistant Engineer,
O & M, Kolathur,
TANGEDCO/CEDC/North,
Chennai-82.

+1cc to Mr.M.T.Arunan, Advocate, S.R.No.62345

W.P.No.28785 of 2013

RSI (CO)
RGA(15/12/2021)