



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.2308 of 2017

and

W.M.P.Nos.2295 & 2296 of 2017

Sree Selvavinayagar Trust,
Rep.by its Managing Trustee,
R.Kuppusamy,
Keezh Anaikarai,
Manalurpettai Road,
Tiruvannamalai.

...Petitioner

..Vs..

- 1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 600 002.
- 2.The Executive Engineer,
Revenue Division (West),
TANGEDCO,
Tiruvannamalai.
- 3.The Assistant Executive Engineer,
Operation & Maintenance,
TANGEDCO,
Tiruvannamalai.
- 4.The Junior Engineer,
Operation & Maintenance,
TANGEDCO,
Tiruvannamalai.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned communication of the 3rd respondent herein dated 28.11.2016 in Letter No.Ka.No.2 Se.Po (Sa)/Tha Nagar/T.Malai/Ko.Kal/A No.281/16, quash the same.

For Petitioner : Mr.K.Govi Ganesan

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel



O R D E R

This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records relating to the impugned communication of the 3rd respondent herein, dated 28.11.2016, in Letter No. Ka.No.2 Se.Po (Sa)/Tha Nagar/T.Malai/Ko.Kal/A No.281/16 and quash the same.

2. The contention of the learned counsel appearing for the petitioner is that the demand was made after a period of five years by the 2nd respondent i.e. for the period relating to November 2007 to January 2009. In terms of Section 56 (2), the arrears of electricity charges can be recoverable only within a period of three years, unless and until the respondent is shown the same in its books of accounts, otherwise it would be within a period of two years. In the present case, the respondents has made a demand to the petitioner only on 10.03.2014 towards electricity charges relating to the period November 2007 to January 2009. Therefore, the demand was made after a period of five years.

3. Section 56 (2) of the Electricity Act, 2003 reads as follows:

"2. Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."

4. On perusal of Clause 56 (2) of the Electricity Act, would shows that the demand notice issued by the 2nd respondent beyond the period of two years which is clearly barred by limitation. However, there is an exclusive clause in Section 56 (2), if the respondent has made a demand within a period of three years and the same is continuously shown in books of accounts, in such a case they are entitled to recover the loan amount. In this regard, the respondents have not able to produce any document to show that a demand notice was served within a period of two years and the arrears of C.C. Charges of the petitioner is shown in the books of accounts. Therefore, it is clear that they have not made any demand within a period of two years or within three years and they shown the due arrears in their books of accounts. Therefore, the demand made by the 2nd respondent is clearly barred by the limitation in terms of Section 56(2) of the Electricity Act, 2003. Thus, the impugned demand notice dated 28.11.2016, stands quashed.



5. The learned counsel for the petitioner submits that the petitioner has deposited a sum of Rs.1,00,000/- at the time of admission of the case, as a condition to grant interim stay and the said amount also deposited as per the order of this Court and now he requested this Court that the same may be adjusted by the respondents in the future electricity consumption charges of the petitioner and accordingly, the learned counsel for the respondents accepted for the same.

6. Thus, the 2nd Respondent is directed to adjust the sum of Rs.1,00,000/-, as the future electricity consumption charges of the petitioner, which was already deposited by the petitioner, with the respondents.

7. With the above direction, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

Pns
To

- 1.The Chairman,
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Anna Salai, Chennai - 600 002.
- 2.The Executive Engineer,
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- 3.The Assistant Executive Engineer,
Operation & Maintenance,
TANGEDCO, Tiruvannamalai.
- 4.The Junior Engineer,
Operation & Maintenance,
TANGEDCO, Tiruvannamalai.

+1cc to Mr.L.Jai Venkatesh, Advocate SR.No.58965
+1cc to Mr.K.Govi Gnesan, Advocate SR.No.59181

W.P.No.2308 of 2017
and
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BD (CO)
GMY (24/01/2022)