

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.02.2021

CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P. No. 29975 of 2016
and
W.M.P. No. 25942 of 2016

S.Viswanathan,
S/o.N.Sarangapani

... Petitioner

-vs-

1. The Secretary to the Government,
Energy Department, Secretariat,
Chennai - 600 009.
2. The Chairman,
TANGEDCO,
No.888, Anna Salai,
Chennai - 600 002.
3. The Director,
TANGEDCO,
No.144, NPKRR Maligai,
Anna Salai, Chennai - 600 002.
4. The Assistant Engineer,
O&M/Kolathur,
TANGEDCO/CEDC/NORTH,
Chennai - 600 082.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 25.07.2016 and consequently direct the 1st and 2nd respondents to cancel the arrears of CC charges short assessment Rs.2,72,951/- (Two Lakhs Seventy Two Thousand Nine Hundred Fifty One Only) by the 3rd respondent's proceedings no.D156/2016, dated 04/07/2016 in respect of my electricity connection no.075.004.1344.

For Petitioner : Ms.D.Kalaivani
for Mr.J.Manikandan
For R1 : Mr.M.D.Ilayaraja
Government Advocate
For R2 to R4 : Mr.P.R.Dhilip Kumar

ORDER

The petitioner has filed the present writ petition for issuance of mandamus, to direct the respondent to consider the representation dated 25.07.2016 and consequently direct the 2nd & 3rd to cancel the arrears of the C.C charges by the 3rd respondent's proceedings no.D156/2016, dated 04/07/2016 in respect of the electricity connection no.075.004.1344.

2. It is the case of the petitioner that the petitioner commenced construction of the property in 2008 and that the construction was completed only in the year 2010. However, the respondents have demanded a sum of Rs.2,72,951/- after the old meter was replaced with Static Energy Meter on 29.07.2014.

3. It is the case of the petitioner that during the period when the building was under construction, the consumption could have been minimal and therefore merely because the consumption increased in the year 2014, the installation of static energy meter would not mean that the petitioner would be liable to pay the amount for the past period as well.

4. In this connection, the petitioner has also sent representation dated 25.07.2016 and has requested for cancellation of arrears demanded based on the new reading in the consumptions based on the static energy meter installed on 29.07.2014.

5. The learned counsel for the respondents submits that the petitioner is liable to pay for the difference in the consumption charges as the old meter was faulty and the meter showed consumption of 1020 units was on account of faulty meter that was installed in 2008.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the respondents.

7. There are disputed questions of fact as to whether the petitioner had commenced the construction in 2008 and the said construction was completed in the year 2010, during which time, the consumption was recorded in the old meter. From a perusal of the electric consumption card filed by the petitioner, there are indications that from December 2013 onwards the consumption of the petitioner had increased to 600 units and thereafter to 1020 units. The static energy meter was installed only in the month of July 2014.

8. Therefore, there appears to be a reasonable ground taken by the petitioner that the consumption increased only after the petitioner started using the property upon completion

of construction. However, this is a disputed question of fact which has to be addressed by the petitioner before the Consumer Grievance Redressal Forum and Electricity Ombudsman, Chennai.

9. Under these circumstances, I direct the petitioner to file an appeal before the Consumer Grievance Redressal Forum and Electricity Ombudsman, Chennai within a period of 30 days from the date of receipt of a copy of this order. If such appeal is filed, the aforesaid authority shall dispose the appeal within a period of 30 days from the date of receipt of the appeal.

10. It is needless to state that such appeal shall be disposed in accordance with law after hearing of the petitioner and it is open for the petitioner to make appropriate submission before the authority concerned, since there is an indication that even when the petitioner was using the old meter, the consumption was high and the petitioner.

11. Pending such appeal, the demand based on the impugned order should not be enforced against the petitioner till the disposal of the said appeal. In case no appeal is filed within such time, the respondents are at liberty to enforce the demand.

12. This Writ Petition stands allowed with the above observations and directions. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS.VIII)

/True copy/

Sub Assistant Registrar

To:

1. The Secretary,
Government of Tamil Nadu,
Energy Department, Secretariat,
Chennai - 600 009.

2. The Chairman,
TANGEDCO,
No.888, Anna Salai,
Chennai - 600 002.

3. The Director,
TANGEDCO,
No.144, NPKRR Maligai,
Anna Salai, Chennai - 600 002.

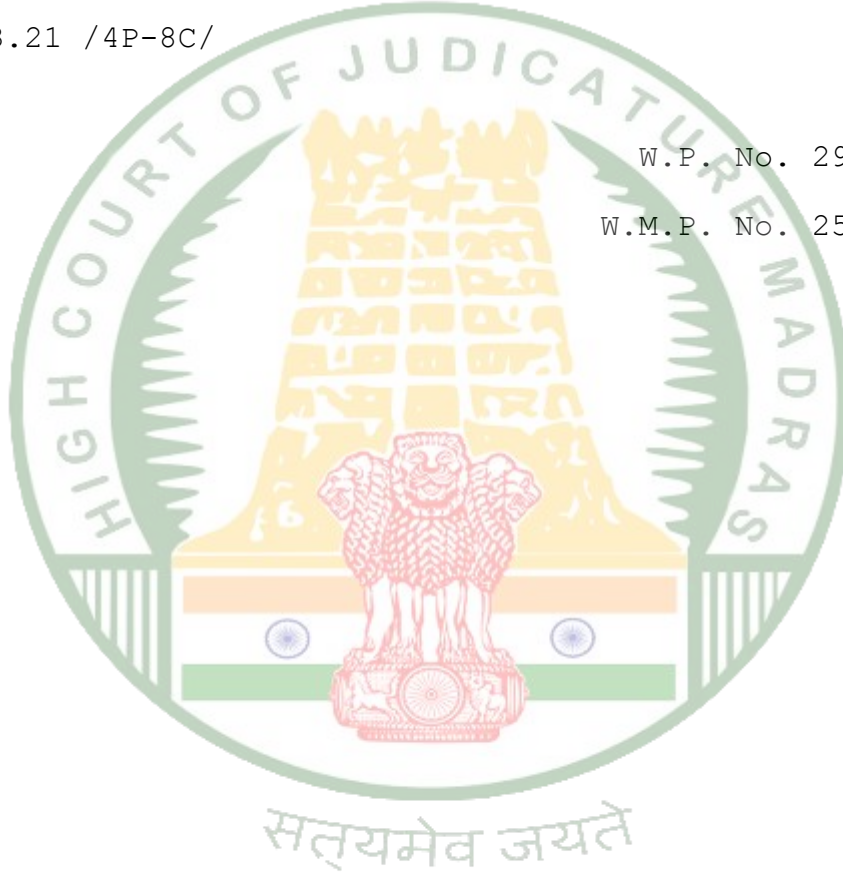
4. The Assistant Engineer,
O&M/Kolathur,
TANGEDCO/CEDC/NORTH,
Chennai - 600 082.

+1cc to Mr.J.Manikandan, Advocate Sr.No.8779

+1cc to Mr.P.R.Dhilip Kumar, Advocate Sr.No.8530

+1cc to The Government Pleader Sr.No.8811

akm /16.03.21 /4P-8C/



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