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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.09.2021

CORAM:

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P. No.21023 of 2021
and WMP Nos.22279 and 22281 of 2021

Kasthuribai Company
Represented by its Partner
V.Muthukumar
S/o.P.Vivekandndan
carrying on business at
T.S.No.1261 Mela Veedhi West Car Street,
Chidambaram 608 001
Cuddalore District.

.. Petitioner

Vs

1.The Executive Engineer,
Operation and Maintenance
TANGEDCO, Chidambaram
Cuddalore District.

2.The Assistant Executive Engineer/Town
TANGEDCO, Chidambaram 608 001
Cuddalore District.

3.The Assistant Engineer,
Urban West TANGEDCO Chidambaram
Cuddalore District 608 001

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned order passed by the 3rd respondent in his proceeding Ka.No.U.Mi.Po/E & Pa/Na..Me/Chidambaram/Va.Aa/Ko.Notice/A.No.42/20-21 dated 09.09.2021 and quash the same and consequently forbear the respondents from insisting the petitioner to convert the electricity service connection No.048-003-818 (110 KV) from LTCT service to HT service in the petitioner premises.

For Petitioner : Mr.K.Raja

For Respondents : Mr.L.Jai Venkatesh
standing counsel



ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. The subject matter of challenge in the present writ petition pertains to the impugned proceedings of the third respondent dated 09.09.2021 and for a consequential direction to forbear the respondents from insisting the petitioner to convert the existing service connection from LTCT service to HT service.

3. The petitioner had earlier approached this Court by filing W.P.No.10082 of 2017 and this Court disposed of the writ petition by an order dated 20.02.2020. In order to understand the background of this case, it will be more beneficial to extract the entire order hereunder:

"2. The petitioner seeks a direction upon the respondents not to insist the petitioner to convert the electricity service connection granted to him into HT service connection.

3. According to the respondents, the petitioner is running two business in the same premise. One in the name of M/s.Kasthuribai Company and another in the name of M/s.NMP Readymades and there is no physical segregation of both business. Since two entities are functioning in the same premise, taking note of the consumption recorded, the petitioner has to convert the service connection into HT service connection.

4. Earlier, this Court has dealt with the case of M/s.NMP Readymades in W.P.No.9738 of 2017 and the writ petition was disposed of by order dated 02.12.2019. Operative portion of the order reads as follows:-

"4. The respondent found that there are two LTCT service connections in same premises where two business are run by the same family and therefore, the respondent Board submits that it is not permissible and it should be treated as single LTCT and based on the same, they have to be necessarily converted to HT service. It is admitted that there are two business. Merely because the same set of partners/directors are running the business, cannot be a reason to disbelieve that two business are distinct and different entities. If the respective business concerns are able to produce documents to show that each is a separate



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legal entity, the respondent Board cannot insist upon conversion to HT service.

5. In the event of establishing that they are two separate entities, then option can be given to the petitioner to convert one of the LT service connection to the name of other entity. Sharing of a single premises by two concerns cannot be the only reason to state that the two concerns are one and the same, because there is a common entrance to the building. However if the petitioner is unable to succeed in establishing that the two concerns are distinct legal entities, then they have to necessarily convert the LT service connection to HT service.

6. With the above observations, this writ petition is disposed of by directing the petitioner to appear before the 3rd respondent and produce all documents to substantiate his case that there are two distinct legal entities. Upon failure, the respondent shall direct the petitioner to convert the service connection to HT service. Based on the documents that are produced, if the 3rd respondent is convinced that they are two separate legal entities then the petitioner should be permitted to convert one of the LT service to the name of the other entity.

7. Furthermore, the 3rd respondent can inspect the property to ensure that though there is a single entrance, there is a permanent segregation for two different units. Equally the petitioner is directed to appear before the 3rd respondent and produce necessary documents within three weeks from the date of receipt of a copy of this order and thereafter the 3rd respondent to comply with the above direction within four weeks there from."

5. In the considered view of the Court, the above mentioned direction would be equally applicable to the facts of the instant case, because, according to the respondents, both business are to be considered as single entity and therefore, the petitioner has to necessarily convert into HT service connection. Since there was already a direction in the above said decision, there will be a direction to the third respondent to examine the contention of this writ petitioner also along with the contention of M/s.NMP Readymades and both matters be taken up together and a common decision be taken in the matter on merits and in accordance with law



simultaneously within the same time frame stipulated in the case of M/s.NMP Readymades.

4. Pursuant to the above order, the third respondent has issued the impugned proceedings dated 09.09.2021, wherein the third respondent has insisted that there must be a permanent wall which segregates both the entities, failing which, the respondents will proceed further with the relevant regulations under the Tamil Nadu Electricity Distribution Code. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard the learned counsel for the petitioner and the learned standing counsel appearing on behalf of the respondents.

6. The above order, in turn, has extracted the earlier order passed in W.P.No.9738 of 2017, which makes it very clear that where two separate entities are able to be established through materials, they cannot be viewed as a single entity merely because they share a single premises and that cannot be a ground/reason for considering them as a single entity. This finding was given by this Court after observing that this will apply even if both the entities are having common entrance to the building. This Court, while disposing of W.P.No.10082 of 2017 had made it clear that this observation must be taken into consideration while taking a decision.

7. A careful reading of the impugned proceedings dated 09.09.2021 of the third respondent shows that it is contrary to the directions issued by this Court. It is seen that the third respondent is insisting for a permanent segregation of the two entities by constructing a wall. Probably the third respondent was having in mind Clause 27(14) of the Tamil Nadu Electricity Distribution Code. For better understanding, the Regulation is extracted hereunder:

"27. ...(14) Where more than one person or more than one establishment is in occupation of a door number or sub door number, more than one service connection will be given only if there is a permanent physical segregation of areas for which different service connections are applied for."

8. Considering two entities as independent is easy to understand from a legal perspective. The rudimentary principle of Company Law is based on this premise that every company is an entity by itself and it has a legal persona. However, when it comes to practical applicability of this principle, it may not be possible to give two separate connections, when the two entities are operating from the same premises. There must be



some physical segregation to enable the respondents to treat the petitioner as a separate entity and continue with the LTCT service connection. This has to be worked out by the third respondent and the earlier orders passed by this Court has to be complied with. The petitioner shall also cooperate with the third respondent and ensure that the practical difficulty is resolved, which will enable the third respondent to continue with the LTCT service connection for the petitioner.

9. In the light of the above discussion, the impugned proceedings of the third respondent dated 09.09.2021 is hereby quashed and the matter is once again remanded back to the file of the third respondent and the third respondent is directed to strictly comply with the earlier orders passed by this Court and the petitioner is also directed to cooperate with the third respondent in order to find out an amicable solution.

10. This writ petition is allowed accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

RR

To

1.The Executive Engineer,
Operation and Maintenance
TANGEDCO, Chidambaram
Cuddalore District.

2.The Assistant Executive Engineer/Town
TANGEDCO, Chidambaram 608 001
Cuddalore District.

3.The Assistant Engineer,
Urban West TANGEDCO Chidambaram
Cuddalore District 608 001

+1cc to Mr.K.Raja, Advocate, S.R.No.50722

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.51011

W.P.No.21023 of 2021

PA(CO)
CB(18/10/2021)