

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No.19522 of 2020
and W.M.P.No.24137 of 2020

S.Velayutham

...Petitioner

Vs.

1.The Chairman
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Annasalai, Chennai 600 002

2.The Superintending Engineer
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Erode District

3.The Assistant Executive Engineer
(Operation and Maintenance)
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Erode Distribution Circle
Modakurichi 638 104
Erode District

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records relevant to the order in D.No.Vu.Po./E.Pe/Moku/Va.Aa/Ko./No.248a/2020-21 dated 06.11.2020 passed by the 3rd respondent and quash the same.

For Petitioner : Mr.M.Palanisamy

For Respondents : Mr.N.Damodaran
Standing Counsel

O R D E R

(The case has been heard through video conference)

This petition has been filed by the petitioner, seeking to call for the records relevant to the order in D.No.Vu.Po./E.Pe/Moku/Va.Aa/Ko. /No.248a/2020~21 dated 06.11.2020 passed by the 3rd respondent and quash the same.

2.The learned standing counsel appearing for the respondents would submit that as per Section 17 of the Tamil Nadu Electricity Supply Code, the pending payments of the erstwhile vendors shall be collected from the present owner. He would further relied upon the latest Judgment of the Hon-ble Supreme Court, vide order dated 01.06.2020 in Civil Appeal No.1815 of 2020 (Telungana State Southern Power Vs.M/s.Srigdha Beverages). The relevant paragraph is extracted hereunder:

"15.We have gone into the aforesaid judgments as it was urged before us that there is some ambiguity on the aspect of liability of dues of the past owners who had obtained the connection. There have been some differences in facts but, in our view, there is a clear judicial thinking which emerges, which needs to be emphasized.

A.That electricity dues, where they are statutory in character under the Electricity Act and as per the terms and conditions of supply cannot be waived in view of the provisions of the Act itself more specifically Section 56 of the Electricity Act, 2003 (in part materia with Section 24 of the Electricity Act, 1910) and cannot partake the character of dues of purely contractual nature.

B.Where, as in cases of the E~auction notice in question, the existence of electricity dues, whether quantified or not, has been specifically mentioned as a liability of the purchaser and the sale is on AS IS WHERE IS, WHATEVER THERE IS AND WITHOUT RECOURSE BASIS, there can be no doubt 10 (supra) that the liability to pay electricity dues exists on the respondent (purchaser).

C.The debate over connection or reconnection would not exist in cases like the present one where both aspects are covered as per Clause 8.4 of the General Terms & Conditions of Supply.

3.In view of the above decision held by the Hon-ble Supreme Court, vide order dated 01.06.2020 in Civil Appeal No.1815 of 2020 (Telungana State Southern Power Vs.M/s.Srigdha Beverages), this court is not inclined to entertain this writ petition. It is open to the petitioner to make the payment to the Electricity Department and recover it from his erstwhile vendor.

4.With the above observation, this Writ Petition stands disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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Modakurichi 638 104, Erode District.

+1cc to Mr.N.Palanichamy, Advocate, S.R.No.454.

AK(CO)
CSR 19.03.2021

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