



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.352 of 2022 AND CMP Nos.2822 AND 2823/2022

1. The Assistant Executive Engineer
Tamil Nadu Generation & Distribution
Corporation Ltd.
TANGEDCO, Perur, Coimbatore.

2. The Divisional Executive Engineer
Tamil Nadu Generation & Distribution
Corporation Ltd.
TANGEDCO, Seera Naicken Palayam
Coimbatore.

.. Appellants

Vs.

Kandasamy

.. Respondent

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 19.3.2021 passed in W.P.No.29218 of 2011.

Prayer in W.P.No.29218 of 2011.

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the Provisional Assessment order of the First Respondent in Lr.No. AEE/O&M/Perur/ C1/F. Theft of Energy/D.No.460 of 2011 dated 17.11.2011 which had been confirmed by the proceedings dated 03.12.2011 of the first Respondent herein in Lr.No. AEE/O&M/Perur/ Va.Aa/Kho. Minthiruttu/A.No.446/2011 in the appeal petition filed by the writ petitioner along with proceedings of provisional assessment and quash the same and direct the 1st respondent to restore the Agricultural Electricity connection No.103-004-306 given for the lands bearing S.F.No.65 Arumuga Goundanur Perur Coimbatore

For Appellants

: Mr.M.Abul Kalam



JUDGMENT
(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge has been made to the order dated 19.03.2021, whereby, the writ petition preferred by the petitioner/non-appellant was allowed.

2. The writ petition was filed challenging the order passed by the respondents imposing liability of Rs.1,09,404/- on the writ petitioner towards the alleged theft of electricity. It was on the ground that at the time of inspection, the petitioner/non-appellant was pumping water to his milk diary through the machine to cool the hot milk and that water had been used for feeding of 12 cattle, thereby, it was taken to be use of electricity for the purpose other than agriculture. The learned Single Judge did not accept the aforesaid in view of the Tariff Order 1 of 2012, where cattle farming, apart from other categories, was taken with the scope of agriculture.

3. In the light of the aforesaid, we do not find any illegality in the order, as, according to the appellants, the petitioner/non-appellant was involved in diary work and not in the cattle farming. The aforesaid argument cannot be accepted. It is not only for the reason that learned counsel for the appellants failed to give definition to cattle farming, which, otherwise may be in the form of diary as well. Therefore, we are unable to accept the argument raised above and even if the facts of this case are taken note of, only 12 cattle were there with the petitioner/non-appellant in his agricultural area and was using the electricity for supplying water to keep the milk cool.

4. Looking to the facts aforesaid, we do not find any reason to cause interference with the order passed by the learned Single Judge, which otherwise does not suffer from any error. Accordingly, the writ appeal is dismissed. There will be no order as to costs. CMP Nos.2822 and 2823 of 2022 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl/drm



To

1. The Assistant Executive Engineer
Tamil Nadu Generation & Distribution
Corporation Ltd.
TANGEDCO, Perur, Coimbatore.

2. The Divisional Executive Engineer
Tamil Nadu Generation & Distribution
Corporation Ltd.
TANGEDCO, Seera Naicken Palayam
Coimbatore.

+1cc to Mr.M.Abul Kalam, Advocate, S.R.No.12946

W.A.No.352 of 2022

GPL(CO)
CT 03/03/2022