

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2921 & 2922 of 2012  
and  
M.P.Nos.2 & 2 of 2012

W.P.No.2921 of 2012

1.K.Murugesan (Deceased)  
2.Loganathan. M ...Petitioner  
[P2 substituted as LR of deceased  
sole petitioner vide order dt.02.12.2021  
in W.M.P.No.10266 of 2021]

Vs.

1. The Superintending Engineer,  
Tamil Nadu Electricity Board,  
Tiruvannamalai.
2. Purnachandiran,  
Assistant Executive Engineer (O&M) /  
Enquiry Officer,  
Tamil Nadu Electricity Board (East),  
Cheyyar - 604 407.
3. Gnanamani,  
Junior Engineer,  
Tamil Nadu Electricity Board (South),  
Cheyyar - 604 407. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the impugned order of Final Assessment dt 21.01.2012 vide Letter No.AEE/E/CYR/FD/D.335/1 12 08 and quash the same on the ground of it being in violation of Rule 23 AA (2)(a) 23 AA (11) and (12) of the Tamilnadu Electricity Supply Code 2004 Section 135 of the Electricity Act 2003 arbitrary and capricious exercise of power Violation of principles of Natural Justice violative of Article 21 of the Constitution and to consequently direct the 2nd respondent to restore the electricity connection meant for agriculture and to direct

refund of Rs.6 000/- obtained by coercion and intimidation in the garb of compounding of offence when no theft has been committed and established as per Tamil Nadu Electricity Supply Code Rule 23AA(2) (a) and award costs.

For Petitioner : Mr.SP.Srinivasan

For R1 : Mr.L.Jaivenkatesh  
Standing Counsel

For R2 & R3 : No Appearance

W.P.No.2922 of 2012

V.Mathiyalagan

...Petitioner

Vs.

1. The Superintending Engineer,  
Tamil Nadu Electricity Board,  
Tiruvannamalai.
2. Purnachandiran,  
Assistant Executive Engineer (O&M) /  
Enquiry Officer,  
Tamil Nadu Electricity Board (East),  
Cheyyar - 604 407.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the impugned order of Final Assessment dt 24.01.2012 vide Letter No.AEE/E/CYR/FD/D.334-1 12:08 and quash the same on the ground of it being in violation of Rule 23 AA (2)(a) 23 AA (11) and (12) of the Tamilnadu Electricity Supply Code 2004 Section 135 of the Electricity Act 2003 arbitrary and capricious exercise of power Violation of Hon'ble High Court's Order in W.P.No.1608 of 2012, violative of Article 21 of the Constitution and to consequently direct the 2nd respondent to restore the electricity connection meant for agriculture and to direct refund of Rs.6 000/- obtained by coercion and intimidation in the garb of compounding of offence when no theft has been committed and established as per Tamil Nadu Electricity Supply Code Rule 23AA(2) (a) and award costs.

For Petitioner : Mr.SP.Srinivasan

For R1 : Mr.L.Jaivenkatesh  
Standing Counsel

For R2 : No Appearance

## COMMON ORDER

The relief sought for in the present writ petitions is to call for the records of the 2<sup>nd</sup> respondent pertaining to the impugned orders of Final Assessment dated 21.01.2012 and 24.01.2012 respectively and quash the same.

2.The orders impugned dated 21.01.2012 and 24.01.2012 respectively, were the final assessment orders issued along with the calculation sheet.

3.The allegation against the writ petitioners was theft of energy and the offence was compounded on payment of the required charges. However, the final assessment has been made by the competent authorities of the Electricity Board and it was served on the petitioners along with the calculation sheet.

4.The final assessment orders reveal that various factors were taken into consideration for the purpose of assessing the electricity consumption charges by the petitioners. However, High Court cannot conduct an elaborate adjudication on those disputed facts between the parties which requires examination of documents and evidences. The working sheet for energy theft enclosed along with Form -10 Final assessment orders require scrutiny and adjudication by the competent authority. In the present case, the final assessment orders have been issued by the Assistant Executive Engineer and therefore, the appeal lie before the Superintending Engineer under Section 127 of the Tamil Nadu Electricity Act.

5.Exhausting appellate remedy is of paramount importance in this case in view of the fact that the findings with reference to the facts are relevant for the purpose of forming an opinion. Thus the petitioners have to exhaust the appellate remedy before approaching this Court. High Court cannot conduct a rowing enquiry in respect of such disputed facts and therefore the petitioners have to exhaust appellate remedy contemplated under the provisions of the Tamil Nadu Electricity Act. The petitioners have already paid the compounding fees and in respect of other charges to be paid based on the final assessment orders, the petitioners are at liberty to approach the competent appellate authority. In the event of filing any such appeal, the period during which the writ petition was pending before the High Court is to be taken into consideration for the purpose of condoning the delay if any application is filed by the petitioner to condone the delay and the issues are to be decided on merits and in accordance with law as expeditiously as possible.

6.With this liberty, the writ petitions stand disposed of.  
No costs. Consequently, the connected Writ Miscellaneous  
Petitions are closed.

Sd/-  
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Superintending Engineer,  
Tamil Nadu Electricity Board,  
Tiruvannamalai.
2. Purnachandiran,  
Assistant Executive Engineer (O&M) /  
Enquiry Officer,  
Tamil Nadu Electricity Board (East),  
Cheyyar - 604 407.
3. Gnanamani,  
Junior Engineer,  
Tamil Nadu Electricity Board (South),  
Cheyyar - 604 407.

+2cc to Mr.S.P.Srinivasan, Advocate, S.R.No.162

+2cc to Mr.S.P.Srinivasan, Advocate, S.R.No.161

W.P.Nos.2921 & 2922 of 2012

VSN-II(CO)  
RGA(24/01/2022)