



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM :

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

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.NO.749 OF 2022

AND

C.M.P.NO.5225 AND 5226 OF 2022

M/s.V.K.N.Guest House,
rep. by Proprietor M.Basheer Ahmed,
Old No.43 & 44, New No.89,
Big Street, Triplicane,
Chennai - 600 005.

.. Appellant/Petitioner

Vs

1. The Chairman, TANGEDCO,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002.
2. The Assistant Executive Engineer,
O&M, CEDC/Central,
No.800, Anna Salai,
Chennai - 600 002.

.. Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 29.11.2021 in W.P.No.28457 of 2011.

Prayer in W.P.No.28457 of 2011:-

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to 2nd Respondent's Final Assessment Order Lr.No.AEE/OUm/A-Sat/F/Theft or Energy/D.No.247/2011 dated 16.11.2011 and consequent notice of disconnection of electricity in Lr.No.AEE/O&M/A.Salai/F.Theft of Energy/D.No.253/11 dated 02.12.2011 issued by the 2nd Respondent, quash the same.



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For the Appellant : Mr.M.Arun

For the Respondents : Mr.L.Jaivenkatesh
1 and 2 Standing Counsel

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

By this writ appeal, a challenge is made to the judgment dated 29.11.2021, whereby the writ petition to challenge the demand of amount after the final assessment order was dismissed.

2. It is a case where after the provisional assessment under Section 126 of the Electricity Act, 2003, the final assessment order was passed computing the total amount payable as Rs.7,92,433/-. Against the said order of final assessment, the appellant has a remedy of appeal under Section 127 of the Act of 2003, but without availing it, the writ petition was filed and, that too, on factual grounds.

3. In the instant case after serving the provisional assessment order affording an opportunity to the appellant to give a reply to it, the final assessment order was passed on 16.11.2011. The provisional assessment order, followed by the final assessment order, was passed after taking into consideration the allegation of theft of electricity by the appellant. If the aforesaid fact was disputed by the appellant, it remains a factual issue and if it was not disputed, the appellant is liable to pay the amount as demanded under the final assessment order. The court should not take liberal approach in these matters, otherwise what we would be doing is nothing but encouraging theft of electricity, which otherwise exists and remains unnoticed at times.

4. We do not find any error in the judgment passed by the learned Single Judge. The court exercising jurisdiction under Article 226 of the Constitution of India cannot arrive at a factual finding as to what amount should be fixed towards quantum, that too, when the allegation pertains to theft of electricity, and should strictly adhere to the process of law.

Accordingly, finding no error in the judgment, the appeal is dismissed. There will be no order as to costs. Consequently,



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C.M.P.Nos.5225 and 5226 of 2022 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sasi

To

1. The Chairman, TANGEDCO,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002.
2. The Assistant Executive Engineer,
O&M, CEDC/Central,
No.800, Anna Salai,
Chennai - 600 002.

+1cc to Mr.T.K.S.Gandhi, Advocate, S.R.No.21145

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.21122

W.A.No.749 of 2022

GPL(CO)
RLP(04/04/2022)