



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.10338 of 2009

and

M.P. (MD)Nos.1 and 2 of 2009

WEB COPY

R.Balasubramanian

... Petitioner

versus

1. The Superintending Engineer,
Electricity Distribution Circle,
Arignar Anna Building,
Tamil Nadu Electricity Board,
Maharaja Nagar,
Tirunelveli - 11.

2. The Assistant Executive Engineer,
Distribution/Urban II,
Tamil Nadu Electricity board,
Tenkasi,
Tirunelveli District.

... Respondents

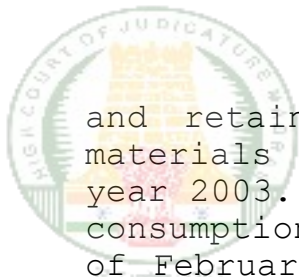
Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent in Aa.A.344/08 dated 11.09.2008 and quash the same.

For Petitioner : Mr.H.Arumugam
For Respondents : Mr.S.Deenadhayalan,
Standing Counsel for TNEB

ORDER

This writ petition is filed challenging the proceedings dated 11.09.2008, in and by which, the second respondent rejected the request of the petitioner for restoring the electricity service connection stating that there is a due amount of Rs.42,890/- towards electricity charges for commercial service connection No.A85 at Tenkasi and on payment of due amount only, the service connection will be restored.

2. The petitioner is the owner of the building, bearing Door No.172, Shenbaga Vinayagar Koil Street, Tenkasi and he was doing Timber business at Tenkasi. Therefore, he used the ground floor of the building as godown for his timber business to stock the materials. He got electricity service connection No.A-85 for the said godown in the year 1991. According to him, he used to open the godown while taking stock materials and after taking the stock materials, close the same immediately. However, he was paying a minimum amount of Rs.70/- towards consumption charges from 1991 to 2007. The petitioner closed the timber business in the year 2003



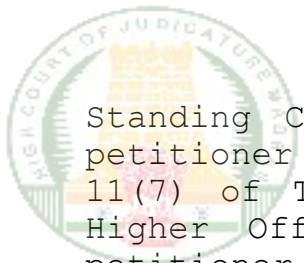
and retained the godown for the purpose of storing the unsold materials and therefore, there was no power consumption from the year 2003. However, he was paying the minimum charges of electricity consumption even after closing the business. While so, in the month of February 2007, the respondent Board assessed the consumption of electricity and charged a sum of Rs.42,890/- as electricity charges for the month of February 2007. The petitioner raised his objection, but, the second respondent, without considering his objection, disconnected the electricity service connection on 16.03.2007 for non payment of said consumption charges. According to the petitioner, the meter is defective and he also submitted a representation on 18.08.2008 to the second respondent, claiming inspection and requesting him to send the meter for testing and to restore the electricity service connection. However, the second respondent, by his proceedings dated 11.09.2008, directed the petitioner to pay the arrears of electricity charges of Rs.42,890/-. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel for the petitioner submits that when the petitioner made a complaint before the second respondent that the meter is defective, as per Section 26 of the Indian Electricity Act, duty is cast upon the second respondent to send the meter for testing to the Electricity Inspector. But, the second respondent has not acted upon as per Section 26 of the Indian Electricity Act and by impugned proceedings dated 11.09.2008, stated that since the meter is in good condition, the restoration will be made only on payment of arrears of electricity charges of Rs.42,890/-. The learned counsel further submits that the petitioner closed down his business in the year 2003 itself and used the godown for the purpose of storing the unsold materials. Therefore, there is no necessity for the petitioner to consume the electricity service connection from the year 2003. However, the petitioner was paying the minimum charge of Rs.70/- as per the rules of Tamil Nadu Electricity Board. Therefore, the assessment made by the respondent Board for consumption of electricity service connection is wrong and based on the defective meter, the second respondent claimed exorbitant charges and therefore, the same needs to be interfered with. In support of his contention, he has also relied upon the following Judgments:

(i) 2000 (3) MLJ 293 (A.A.Mohd. Rafi vs. Tamil Nadu Electricity Board, Rep. by its Chairman, Madras and others);

(ii) 2004 (1) CTC 515 (M/s.Shree Ganapathy Industries, Rep. by its Managing Partner, Govindasamy vs. the Assistant Engineer, Distribution/Sipcto, MEDC-North, Gummidipoondi).

4. The learned Standing Counsel for TNEB submits that there is a due of Rs.42,890/- payable by the petitioner for the billing month of February 2007 and for non-payment of the due amount, the service connection of the petitioner's timber shop and godown was disconnected on 16.03.2007, as per Section 56(i) of Electricity Act, 2003, and Regulation 21 of TNERC Supply code. The learned



Standing Counsel for the respondent further submits that if the petitioner feels that the meter reading is fault, as per Regulation 11(7) of TNERC supply code, it should have been reported to the Higher Officer or Consumer Grievance Redressal Forum. If the petitioner is having grievance about the assessment of electricity charges, as per Regulation 12(3) of TNERC Supply code, a complaint should have been lodged within three days prior to the due date for payment. But, in this case, the petitioner approached the second respondent and made a representation only on 18.08.2008, i.e. after 15 months. He further submits that the meter was sent for testing to the Assessing Officer and as per the report of the Assessing Officer, there is no defect in the meter. Therefore, the electricity charges assessed by the second respondent cannot be said to be excessive.

5. This Court considered the rival submissions and perused the materials available on record.

6. The second respondent Board assessed the consumption of electricity charges for the month of February 2007 at Rs.42,890/-. As the petitioner failed to pay the said amount, the service connection was disconnected on 16.03.2007. If the petitioner is having any grievance over the assessment made by the second respondent, he ought to have taken appropriate steps by lodging a compliant to the Higher Officials or before the Consumer Grievance Redressal Forum within three days prior to the due date for payment. But, the petitioner kept quite for more than 15 months and approached the second respondent and submitted his representation only on 18.08.2008. The petitioner alleged that the meter is defective and the same has not been sent for testing. But, the second respondent claimed that they have checked the meter and there was no defect in the meter and the meter is functioning properly. In the light of such a stand taken by the respondents, this Court cannot assume that there was a defect in the meter and the assessment of consumption of electricity charge is very excessive. Therefore, this Court do not find any error in the proceedings dated 11.09.2008.

7. In view of the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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Tenkasi,
Tirunelveli District.

+1 CC to M/s.H. ARUMUGAM, Advocate (SR-19918[F] dated 20/04/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-20288[F]
dated 21/04/2022)

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