



W.P.(MD)No.9745 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9745 of 2019

and

W.M.P(MD)No.7645 of 2019

K.Sakthivairavan

... Petitioner

Vs

The Assistant Engineer (Distribution),
TANGEDCO,
Perunali,
Ramanthapuram District – 623 115.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned communication, dated 12.04.2019 in Ka.No. UMIPO/Vi/Peru/Ko/A.No:078 passed by the respondent and quash the same and consequently, direct the respondent to effect electricity supply to the premises belonging to the petitioner bearing Door No.10/122 in S.No.42/1A, Perunali, Ramanathapuram District.



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For Petitioner : Mr.A.N.Ramanathan
for M.K.Karthikeyavenkatachalapathy

For Respondent : Mr.S.Deenadhayalan
Standing Counsel

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent / TANGEDCO.

2. Even before the commencement of the arguments, the petitioner undertook to remit a sum of Rs.1,00,000/- (Rupees One Lakh only) to TANGEDCO unconditionally towards partial liquidation of his father's dues arising out of the energy theft allegedly committed by him. In other words, if the petitioner's father loses the case against the TANGEDCO, this amount will be adjustable, if the petitioner's father wins the case against the TANGEDCO, this amount will not be refunded. The petitioner shall remit the said amount to the TANGEDCO within a period of one week from the date of receipt of a copy of this order. This undertaking is recorded.

3. The petitioner's father / Kalimuthu is running a Textile Mill. He came under the adverse notice of the TANGEDCO on two occasions. He is alleged to have committed energy theft. Proceedings are pending in this regard. While



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so, the petitioner applied for grant of electricity service connection for the petition mentioned premises which is a Marriage Hall. There is no dispute that the Marriage Hall was constructed only by the writ petitioner. The building approval as well as planning approval are in his name. TANGEDCO relying on Regulation 17 of the Tamil Nadu Electricity Supply Code contended that since the dues of the father are yet to be cleared, the electricity service connection as sought for by the petitioner cannot be granted.

4. According to TANGEDCO, the Marriage Hall has been constructed on the land belonging to the petitioner's father. This Court appointed an Advocate Commissioner. The report of the Advocate Commissioner states that the Marriage Hall measures about 10,000 Sq.Ft and that the compound wall alone had been put up on the petitioner's father's land comprised in Survey No. 73/2A. Merely because compound portion of the Hall falls within the land belonging to his father, Regulation 17 need not be triggered against the writ petitioner. If need be, the compound wall can be demolished and it can be realigned. The electricity service connection is sought only for the Marriage Hall. The marriage hall is only on the petitioner's land and not on the father's land.



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5. Of course, the learned standing counsel would point out that the energy theft had taken place way back in the year 1998 and 2002 and that the petitioner had taken a gift from his father only in the year 2013. Yet I am inclined to take an indulgent view primary for the reason that the mill premises where the energy theft took place are located over 3.16 acres of land and that their current market value is said to be over Rs.3 Crores.

6. The learned counsel appearing for the petitioner, on instructions, categorically states that the Mill property is free of any encumbrance. The original claim of TANGEDCO is Rs.52,00,000/- (Rupees Fifty Two Lakhs only). The Mill property alone will be sufficient to meet the demand of TANGEDCO.

7. The Electricity Service Connection is a fundamental amenity. A Marriage Hall has been put up. Unless it is granted electricity connection, it cannot be made to run. By granting the service connection to the writ petitioner, TANGEDCO is not going to suffer any prejudice whatsoever. In this view of the matter, the impugned proceedings are quashed. The respondents are directed to give electricity supply to the Marriage Hall in question within a period of four weeks from the date of receipt of a copy of this order subject to fulfilment of the usual formalities.



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8. This writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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