



W.P(MD)No.606 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.11.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.606 of 2014

and

M.P(MD)No.1 of 2014

WP.John Jebaraj

... Petitioner

Vs.

1.The Superintending Engineer (Distribution),
TANGEDCO, Tamil Nadu Electricity Board,
Tiruchendur, Tuticorin District.

2.The Assistant Engineer (Distribution),
TANGEDCO, Tamil Nadu Electricity Board,
Tiruchendur, Tuticorin District.

3.Muthukrishnan
At present working as
The Assistant Engineer (Distribution),
TANGEDCO, Tamil Nadu Electricity Board,
Puliampatti, Tuticorin District.

4.S.Shelton Rajadurai

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in letter



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No.A.E/Distribution/Tiruchundur/File Audit/A.No.809 011, dated 20.12.2013 and quash the same and consequently direct the respondents 1 and 2 herein to collect a sum of Rs.1,06,865/- from the respondents 3 and 4 herein.

For Petitioner : M/s.T.Pon Ramkumar

For R-1 & R-2 : M/s.S.Deenadhayalan
Standing Counsel

For R-3 & R-4 : No appearance

ORDER

The present Writ Petition has been filed challenging an order passed by the second respondent, under which, they have demanded a sum of Rs.1,06,865/- from the writ petitioner on the ground that the meter was defective between March 2011 and May 2011.

2. According to the learned Counsel for the petitioner, his tenant was in possession of the property. During the relevant period, he had been regularly making allegation of theft of energy by his tenant to the authorities. However, without considering the said fact, the respondent authorities were lethargic in their activities. But finally, a provisional



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assessment order and final assessment order were issued as against his tenant. Since the tenant has left the property after initiation of criminal prosecution, the petitioner has challenged the final assessment order in W.P(MD)No.9967 of 2012. This Court, by an order, dated 30.08.2022, has exonerated the writ petitioner, on the ground that the tenant alone is responsible for the theft of energy and the respondent authorities have not acted promptly in taking action as against the tenant, against whom the writ petitioner was making series of allegations.

3. The present impugned order has been issued on 20.12.2013, alleging that the same meter was defective for a period between March 2011 and May 2011. It is pertinent to point out that for the same period, the respondent authorities have issued provisional assessment order and final assessment order as against the tenant, alleging that, there was theft of energy as contemplated under Section 135 of the Electricity Act. It is not known how, for the same period, the respondent authorities are alleging that there was a short levy due to defective meter and there was theft of energy for the same electricity service connection.



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4. The order impugned in the writ petition has been passed without any notice or giving opportunity to the writ petitioner. Hence, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the second respondent herein. The second respondent is directed to consider the matter afresh in the light of the order passed by this Court in W.P(MD)No.9967 of 2012, dated 30.08.2022.

5. With the above said observations, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

03.11.2022

Index : Yes / No
Internet : Yes / No
btr

To

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- 2.The Assistant Engineer (Distribution),
TANGEDCO, Tamil Nadu Electricity Board,
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3. The Assistant Engineer (Distribution),
TANGEDCO, Tamil Nadu Electricity Board,
Puliampatti, Tuticorin District.



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R.VIJAYAKUMAR, J.

btr

Order made in
W.P(MD)No.606 of 2014

03.11.2022