



WEB COPY



W.P.Nos.19861 & 19641 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.19861 & 19641 of 2011

1. M/s.Yamuna Homes
Rep. by Proprietrix
Vimala Dharmalingam

2. Vimala Dharmalingam
3. Indu Dharmalingam
4. Suhasini Dharmalingam

Petitioners in
W.P.No.19861 of 2011

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1. M/s.Liscon Homes
Rep. by Proprietrix
Vimala Dharmalingam
Block IV Liscon Homes
Parameswari Nagar 4th Street
Adyar, Chennai – 600 020.

Petitioners in
W.P.No.19641 of 2011

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VS

The Assistant Executive Engineer
Adyar, Operation and Maintenance
CEDC / South, 40A, 1st Main Road
Besant Nagar, Chennai – 600 090.

Respondents in
both W.Ps

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Prayer in both W.Ps: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to notice under Form 9 vide letter No. AEE/E&P/Adyar/D.Elect.Theft/D.Camp/11 dated 22.07.2011 issued by respondent and to quash the same.



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For Petitioners in : Mr.Manivasagam
both W.Ps for M/s.Manivasagam Associates

For Respondent in : Mr.L.Jai Venkatesh
both W.PS for TANGEDCO

COMMON ORDER

The demand notice issued by the Assistant Executive Engineer in proceedings dated 22.07.2011 is sought to be quashed in these writ petitions.

2. The allegation of theft has been raised against the petitioners and a criminal case was also registered based on the complaint given by the respondent. A provisional assessment order has been passed by affording an opportunity to the petitioners to submit their objections, if any, along with the documents within a period of five days from the date of passing of the provisional demand notice. This is impugned in the present writ petition.

2. In spite of defending the case before the competent authority, the petitioners have chosen to file these writ petitions. No writ against a demand notice, affording opportunity to the consumer, is entertainable. In



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all such circumstances, the person who received such demand notice has to defend his case in the manner contemplated. High Court cannot adjudicate such disputed issues relating to theft of energy and the said adjudication must be done with reference to the documents and evidences available on record.

3. Thus, the explanation given in the writ petitions, in the matter of theft, cannot be considered by this Court . This being the factum, the petitioners are at liberty to defend their case by submitting documents, objections, etc., and by contesting the criminal case and the authority competent is at liberty to proceed with the case in the manner contemplated and by affording an opportunity to the writ petitioner.

4. Accordingly, the writ petitions stands dismissed. There will be no order as to costs. Consequently, M.P.No.1 of 2011 is also closed.

06.04.2023

Index : Yes/No

Neutral Citation : Yes/No

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To:

1. The Assistant Executive Engineer
Adyar, Operation and Maintenance
CEDC / South, 40A, 1st Main Road
Besant Nagar, Chennai – 600 090.



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S.M. SUBRAMANIAM, J.

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