



WEB COPY



W.P. No.11358 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.11358 of 2018

and

W.M.P. Nos.13257 and 13258 of 2018

Rajalakshmi

... Petitioner

Vs

The Junior Engineer,
Operation & Maintenance,
TANGEDCO,
Kodur,
Vanur Taluk,
Villupuram District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to quash the impugned notice, vide Ka.No:E.Me.Po/E & Pa/Kodur/Ko.kattur/A. No.368/2018, dated.02.2018 issued by the respondent and continue the petitioner electricity service connection No.44-001-983/IIIA1.

For Petitioner

: Ms.R. Divya Priya
for

M/s.S.Ramajayam

For Respondent

: Mr.L. Jaivenkatesh
Standing counsel



W.P. No.11358 of 2018

ORDER

WEB COPY This writ petition has been filed to quash the notice in Ka.No:E.Me.Po/E & Pa/Kodur/Ko.kattur/A. No.368/2018, dated.02.2018 issued by the respondent.

2. It is averred that the petitioner has purchased a land at measuring 15 cents in S. No.329/3, Kilputhupattu village, Marakanam Panchayat Union, which was registered by way of Sale Deed, dated 28.7.2016 on the file of Sub-Registrar, Marakanam. As such, she is enjoying the property and running a poultry farm and obtained electricity service connection to her property on 12.05.2017 through Service connection No.446-001-983/IIIA1. While so, based on an Audit report for the period from 04/2011 to 09/2011, the respondent issued notice to her, thereby demanding her to pay a sum Rs.3,14,503/- towards due amount for the electricity service connection No.446-001-560 given to the lands in S. Nos.329/2, 329/3, 329/4, which lands belongs to Palani and Murugavel and later leased out to one Sara. It is her case that the respondent has further stated that failure in making payment of the aforesaid amount would lead to recovery action and disconnection of electricity service No.446-001-983/IIIA1, which pertains



W.P. No.11358 of 2018

to her. Moreover, she has stated that she purchased the property viz., S. No.329/3 only in the year 2016 and obtained separate electricity service connection. Hence, aggrieved by the impugned demand, she has filed this writ petition for quashment of the same.

3. Learned counsel for the petitioner submitted that prior to petitioner's purchase, her vendor's father leased out the property in S. Nos.329/2, 329/3, 329/4 to one Sara for doing business activities, who committed default in making payments for the usage of electricity consumption. However, the respondent has not recovered the said amount from the petitioner's vendors. She further submitted that the petitioner has obtained a portion of the vendors' property and got separate electricity connection, but without analysing the same, the respondent mechanically passed the impugned order, which is irrational and illegal. Hence, she prays before this Court to set aside the impugned demand dated .02.2018 passed by the respondent and thereby allowing the instant writ petition.

4. Denying the submissions made by the learned counsel for the petitioner, Mr.L.Jaivenkatesh, learned Standing Counsel for the respondent submitted Survey No.329/3 was in favour of Rajalakshmi and they have



W.P. No.11358 of 2018

already communicated the impugned levy was due to an audit query.

Reiterating the counter affidavit, he submitted that as against the impugned demand, effective remedy is available to the petitioner before the Consumer Grievance Redressal Forum under Rule 18 of the Tamil Nadu Electricity Supply Code, 2004 and without availing such remedy, the petitioner has come forward with this writ petition which is not sustainable. Hence, he prays for dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. It is evident from a perusal of the records that the petitioner purchased a portion of land from the total extent, which is measuring 15 cents in S. No.329/3. It is an undisputed fact that the aforesaid land was registered on the file of Sub-Registrar, Marakkanam on 28.07.2016. It is also not in dispute that prior to her purchase, the owners of the lands in S. Nos.329/2, 329/3, 329/4 leased out the property to one A.M.Saras Chandraji Raju, who used the said property for lathe and welding work. Admittedly, based on the audit report for the period from 04/2011 to 09/2011, the impugned demand has been raised by the respondent, whereas,



W.P. No.11358 of 2018

it is to be noted that due to default committed by one A.M.Saras, liability cannot be fastened on the petitioner, who is having separate electricity service connection. Thus, this Court is of the view that the impugned demand has been raised mechanically by the respondent and therefore, it suffers the vice of perversity and illegality and the same deserves to be set aside.

7. For the aforesaid reasons, the impugned demand dated .02.2018 is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner as well as other owners / vendors, within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, the writ petition stands allowed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

21.03.2023

vsi2

Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No

5/6



WEB COPY



W.P. No.11358 of 2018

M.DHANDAPANI, J.

vsi2

To
The Junior Engineer,
Operation & Maintenance,
TANGEDCO,
Kodur,
Vanur Taluk,
Villupuram District.

W.P. No.11358 of 2018

21.03.2023