



WP.No.1142 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.01.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.11342 of 2014 and
MP.Nos.2 & 3 of 2014

Sivagami

... Petitioner

Vs

1.The Executive Engineer,
(Operation and Maintenance),
Salem Town Section,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Salem – 636 001.

2.The Assistant Engineer,
Gugai Section,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Salem – 636 006.

3.M/s.Annamalai Cotton Mills (P) Ltd.,
Rep. by its Director Mr.Raja Ganesan,
S/o Perumalchetty Sundaram,
Gajjenaickenpatti,
Salem – 636 201.

... Respondents

(R3 cause title amended vide order dated 16.12.2022
made in WP.No.11342 of 2014 by this Court)



WP.No.11

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 relating to proceedings issued by the 1st Respondent in Ka.No.Se.Po/E&Pa/Na/Se/varai/Ko.L.Cell/No.010/14-15 dated 09.04.2014 and to quash the same and consequently direct the respondents to give electricity service connection to the premises of the Petitioner situate at No.169/2, 169/3 & 169/4, Samiappa Nagar, Seelanaickenpatti, Salem-636 201, comprised in S.No.95/3B and 95/5, T.S.No.93 (Part), on the application dated 03.03.2014 submitted by the Petitioner, within the period stipulated by this Court.

For Petitioner : Mr.J.Umaid Gothi
for Mr.N.C.Ashok Kumar
For Respondents : Mr.I.Syed Sibghatulla ((for R1 & R2)
Standing Counsel

ORDER

The petitioner has sought the relief of quash of proceedings issued by the Executive Engineer (Operation and Maintenance), Tamil Nadu Electricity Generation and Distribution Corporation/R1 dated 09.04.2014 and a consequential direction to the respondents to give electricity service connection to the premises at No.169/2, 169/3 and 169/4, Samiappa Nagar, Seelanaickenpatti, Salem (property/property in question) comprised in S.Nos.95/3B and 95/5, T.S.No.93 (Part) pursuant to her application dated 03.03.2014.

2.This writ petition has been filed in 2014 and it is seen that the husband of the petitioner, one V.Venkatachalapathy, had filed a writ petition in WP.No.13026 of 2013



challenging an order passed by the 2nd respondent in that writ petition being the Executive Engineer (Operation and Maintenance), Tamil Nadu Electricity Generation and Distribution Corporation rejecting his application for three phase electricity service connection to the same property in respect of which the present impugned proceedings have been issued.

3.Thus, both the present petitioner and her husband have made applications almost simultaneously for grant of electricity service connection in respect of the same property. That writ petition was dismissed by an order of this Court dated 28.08.2018, stating as follows:

‘The order dated 23.04.2013, rejecting the claim of the writ petitioner to provide three phase Electricity Service connection to the petitioners property situated at S.No.95/3B in D.No.169/2, 169/3, 169/4, Samiappa Nagar, Seelinaickenpatti, Salem is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is the absolute owner of the property, which is described in the present writ petition. The writ petitioner submitted an application to provide service connection in the said premises stated above. However, the application submitted by the writ petitioner has been rejected by the respondents in proceedings dated 23.04.2013, stating that in respect of payment of arrears of consumption charges and theft of energy, amounting to Rs.22,55,45,744/- (Rupees Twenty Two Crores, Fifty Five Lakhs, Forty Five Thousand, Seven Hundred and Forty Four only) is pending before the Courts for adjudication.

3.The learned counsel appearing on behalf of the respondents states that the writ petitioner and the other Directors of the Company had involved in the offence of theft of energy to a huge extent of all such charges, which are pending before the competent Courts for adjudication.



4. Under these circumstances, the respondent Board is not in a position to provide a fresh service connection and the same is impermissible under Regulation 17(9) of the Tamil Nadu Electricity Supply Code, which states as follows:

“In case of service connection in a premises, which have been disconnected/dismantled for defaults in payment of dues whatsoever and if such service connections are to be reconnected or new service connections are to be obtained by other persons in such premises either by purchase or transfer or lease basis, the distribution licensee shall reconnect such a service connections or effect new service connections, as the case may be, in such premises only after payment of dues attributed to such premises by the applicant.”

5. This Court is of an opinion that the writ petitioner along with others had involved in respect of the allegation of theft of energy and non-payment of consumption charges. The arrears to be paid to the Electricity Board is amount to Rs.22,55,45,744/- (Rupees Twenty Two Crores, Fifty Five Lakhs, Forty Five Thousand, Seven Hundred and Forty Four only) even in the year 2013. Now, it would be still more and all these allegations are now pending before various Courts for adjudication. Under these circumstances, the decision taken by the respondents relying on Regulation 17(9) of the Tamil Nadu Electricity Supply Code is in accord with the provisions of law and there is no infirmity as such. Only after settling all the issues in relation to the theft of energy, the case of the writ petitioner shall be considered on merits and in accordance with law.

6. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs.’

4. The facts as regards both matters remain identical. More importantly, the order of this Court dated 28.08.2018 has attained finality and has not been challenged by that petitioner.

5. In such circumstances, I see no reason to depart from in the view taken by learned Judge in that order. The submission of the present petitioner to the effect that



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the petitioner has been discharged from the criminal cases is of no consequence as those issues give rise to a separate cause of action. In any event, the discharge of the petitioner and the family members from the criminal proceedings are stated to be pending in Writ Appeal before this Court.

6. Relevantly, the factum of substantial arrears of a sum of Rs.22.55 (approx. crores) to the electricity board has not been denied by the petitioner at any stage, and is not denied even before me now.

7. In the above circumstances, there is no infirmity in the impugned order that is passed. Both for the reasons as set out aforesaid, as well as in the interests of consistency, the impugned order is confirmed. This writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

11.01.2023

vs

Index : Yes / No

Speaking Order

To

1. The Executive Engineer,
(Operation and Maintenance),
Salem Town Section,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Salem – 636 001.

Dr. ANITA SUMANTH, J.



WP.No.11342 of 2014

VS

2.The Assistant Engineer,
Gugai Section,
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