



WEB COPY



W.P.No.26160 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26160 of 2018

And

W.M.P.Nos.30371 and 30376 of 2018

K.K.Sirajutheen

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Generation of Electricity and
Distribution Corporation,
Nagapattinam District,
Nagapattinam.

2.The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Generation of Electricity and
Distribution Corporation (North),
Nagapattinam.

3.Mr.R.Ravanan

(R3 suo motu impleaded vide order
dated 30.04.2019, made in
W.P.26160 of 2018 by TRJ)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus by calling for the records
comprised in the final assessment order dated 05.04.2018 vide LR.No.



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AEE/O and M/NORTH/NGT/A.No.316/18 and the consequential order dated 05.04.2018 LR.No.AEE/O and M/NORTH/NGT/F.THEFT/D.No. 317/18.T passed by the second respondent and to quash the same and consequently direct the second respondent to restore the power supply in Service Connection No.502-103-045 situate at No.115, Nethaji Road, Nagapattinam.

For Petitioner : Mr.Shricharan Rangarajan
Senior Counsel
for M/s.Mohamed Ashick.H

For Respondents : Mr.D.B.R.Prabhu for R1 and R2
Mr.M.Jayakumar for R3

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus by calling for the records comprised in the final assessment order dated 05.04.2018 vide LR.No. AEE/O and M/NORTH/NGT/A.No.316/18 and the consequential order dated 05.04.2018 LR.No.AEE/O and M/NORTH/NGT/F.THEFT/D.No. 317/18.T passed by the second respondent and to quash the same and consequently direct the second respondent to restore the power supply in Service Connection No.502-103-045 situate at No.115, Nethaji Road, Nagapattinam.



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2.The case of the petitioner is that the petitioner is the Manager of Star Juice and Bakes situate at No.115, Nethaji Road, Nagapattinam, where theft of electricity was detected on 12.09.2017 at 10.30 p.m., during a surprise audit energy conducted by the Anti – Theft Squad of the TANGEDCO led by the second respondent. Subsequently, a case in Crime No.350 of 2017 was registered by the Nagapattinam Town Police Station as against the petitioner and two others and the petitioner obtained anticipatory bail vide order of this Court dated 21.09.2017 made in CrI.O.P.No.19591 of 2017. Inorder to recover the revenue loss, the second respondent passed the final assessment order directing the petitioner to pay a sum of Rs.13,93,670/-. Challenging the same, the petitioner has filed this writ petition.

3.When the matter was taken up for consideration, the petitioner appeared in person before this Court and submitted that he has already deposited a sum of Rs.8 Lakhs and agreed to remit the balance amount of Rs.5,93,670/-. He further submitted that already the subject property has been acquired by the Government and the



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entire portion is going to be demolished and prayed for lenience in payment of the balance amount by way of installments.

4.The learned Senior Counsel appearing for the petitioner submitted that the criminal case against the petitioner is pending before the competent Court and hence, without prejudice to the petitioner's rights and contentions before the Court where the criminal case is pending, this Court may permit the petitioner to remit the amount in installments.

5.The learned counsel appearing for the respondents 1 and 2 vehemently opposed for this Court considering the petitioner's request and submitted that based on the audit report, the order impugned in the writ petition was passed.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, theft of electricity was detected on 12.09.2017 at 10.30 p.m. at the



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premises where petitioner is running Juice and Bakery Stall, during surprise audit energy conducted by the Anti - Theft Squad of the TANGEDCO led by the second respondent and a case in Crime No.350 of 2017 was registered by the Nagapattinam Town Police Station as against the petitioner and two others and the same is pending trial before the competent Court. Inorder to recover the revenue loss, the second respondent has passed the assessment order directing the petitioner to pay a sum of Rs.13,93,670/-.

8.Further, the petitioner appeared in person before this Court and submitted that he has already deposited a sum of Rs.8 Lakhs and agreed to remit the balance amount of Rs.5,93,670/- and also submitted that already the subject property has been acquired by the Government and the entire portion is going to be demolished and prayed for lenience in payment of the balance amount by way of installments.

9.In view of the above, this Court, without expressing any opinion on the merits of the case, permits the petitioner to remit the balance amount of Rs.5,93,670/-, by way of three installments and the same shall be remitted on or before 5th of every succeeding English



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Calendar Month, commencing from August, 2023 and ending during October, 2023, without prejudice to the petitioner's rights and contentions before the Court where the criminal case is pending. On receipt of the entire amount, the Official respondents are directed to close the files as against the petitioner.

10.The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

15.06.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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