



WEB COPY



W.A.No.2573 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.2573 of 2024 and
C.M.P.Nos.18234 & 18501 of 2024

S.Sakthivel

... Appellant/Petitioner

-VS-

1. The Superintending Engineer,
TNEB, K.K.Nagar,
Chennai.
2. The Assistant Divisional Engineer,
Nanganallur,
Chennai-600 061.
3. The Assistant Executive Engineer,
Moovarasanpet, TNEB,
Madipakkam, Chennai-600 091.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 09.08.2024 made in W.M.P.No.23242 of 2024 in W.P.No.9705 of 2024.

For Appellant : Mr.K.V.Dhanapalan
For Mr.D.Suriyanarayanan

For Respondents : Mr.L.Jaivenkatesh
Standing Counsel



W.A.No.23242 of 2024

J U D G M E N T

(By Hon'ble Acting Chief Justice)

WEB COPY

This Writ Appeal has been filed, challenging the order dated 09.08.2024 made in W.M.P.No.23242 of 2024 in W.P.No.9705 of 2024, by which the request to modify the order dated 05.04.2024 in respect of payment of 5th installment was rejected.

2. Mr.L.Jaivenkatesh, learned Standing Counsel takes notice for the respondents.

By consent of the parties, the Writ Appeal itself is taken up for final disposal.

3. Learned counsel for the Writ Petitioner/Appellant herein submitted that at the time of hearing the main Writ Petition, the appellant, in order to show his *bona fide*, accepted to settle the entire amount provisionally assessed in seven instalments and on the basis of the affidavit filed by the petitioner, the Writ Petition was disposed of. Subsequently, the appellant filed a modification petition, seeking to extend the duration of payment of instalments, as he was not in a position to pay the 5th instalment due to financial crisis and sought to modify the order in respect of payment of the balance amount of Rs.2,14,227/- in ten instalments, payable on 15th of every calendar month. However, the said petition was dismissed by the learned Single Judge.

4. Learned Standing Counsel appearing for the respondents / TNEB contended that there was a provisional assessment of consumption charges, which comes to Rs.2,14,227/- and no final order has been passed as on date. As per the Rules, the assessed charges have to be



W.A.No.25 of 2017

paid to the Board and though the appellant agreed to pay the entire amount, there was a default in payment of 5th instalment. He further contended that pursuant to the default committed by the appellant, the electricity connection was discontinued. He also contended that under the Rules, if 50% of the provisionally assessed amount is paid, the consumer is entitled to restoration of electricity and once the final order is passed, then only the exact amount payable by the appellant would come to light.

5. At this juncture, learned counsel for the appellant stated that the petitioner had already paid Rs.3,00,000/- to the respondents, which is more than 50% of the provisional assessment.

6. Upon hearing the submissions of the parties, it is clear that the appellant had already paid 4 instalments, which comes around Rs.3,00,000/- and the same is not disputed by the respondent Board. Moreover, as per the Rules in existence, the appellant had to pay only 50% of the amount provisionally assessed and therefore, no prejudice would be caused to the respondent Board, if the request of the appellant to grant time to pay the balance amount in ten instalments is acceded to by this Court. Accordingly, this Court is inclined to modify the order to read as under:

HON'BLE ACTING CHIEF JUSTICE,



W.A.No.2573 of 2024

AND
P.B.BALAJI,J.,

ar

WEB COPY

i) The appellant is permitted to pay the balance amount in ten instalments and the 1st instalment of Rs.25,000/- shall be paid today itself and an undertaking affidavit shall be filed before the respondent Board to that effect. On payment of the 1st instalment, the electricity connection shall be restored by the Board forthwith.

ii) The appellant shall continue to pay the instalment of Rs.25,000/- each on the 15th of every Calendar Month and while paying the last instalment, the amount so payable by the appellant shall be adjusted.

iii) In case of default of payment of any of the instalment, it is open to the respondents to take necessary action as per rules for discontinuation of the electricity connection provided to the appellant.

With the above directions, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,ACJ.]

[P.B.B.,J.]

23.08.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

ar

W.A.No.2573 of 2024