



W.P.(MD) No.14602 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.14602 of 2017
and
W.M.P.(MD) No.11452 of 2017**

T.K.T.Thilagarathinam

... Petitioner

/vs./

1.The Executive Engineer/Distribution,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
Opp. Bell Hotel, Sivakasi,
Virudhunagar.

2.The Assistant Executive Engineer /O&M,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
N.Subbiapuram, Sattur TK,
Virudhunagar.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 2nd respondent's impugned notice letter No.Ka.Na.VuSePo/Pagir/Na.Su.Pura/Ko.Kattu/A.N. 131/17 dated 01.06.2017 quash the same as illegal, arbitrary, without jurisdiction,



W.P.(MD) No.14602 of 2017

contrary to the provisions of Tamil Nadu Electricity Board (Recovery of Dues) Act 1978, the Electricity Act 2003 and Tamil Nadu Supply Code, 2004.

For Petitioner : Mr.R.S.Pandiyaraj

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

For R3 : No appearance

ORDER

The challenge in this writ petition is to a communication of the second respondent herein calling upon the petitioner to pay a sum of Rs.42,05,215/- within a period of 15 days, failing which appropriate action would be initiated as per Regulations.

2. The learned counsel for the petitioner would submit that the petitioner is a subsequent purchaser of the property from a successful bidder in the Court auction conducted under the SARFAESI proceedings. He would submit that the petitioner was not aware of any pendency of dues to the respondents to the tune of more than Rs.42,00,000/- by the original owner of the land, which was sold in public auction under the SARFAESI Act. Hence, he cannot liable to pay the said



W.P.(MD) No.14602 of 2017

amount. He would further submit that before issuing the impugned communication, the petitioner had not been put on notice even though it is the case of the respondents that they had come to know that the petitioner is the present owner of the property by perusing the encumbrance certificate regarding the property. Therefore, he would seek interference of this Court to set aside the impugned order as being violation of principles of natural justice.

3. The learned standing counsel for the respondents on the other hand would submit that the connection stood in the name of M/S.Subbulakshmi Spinning Mills, which went into the proceedings under the SARFAESI Act and the Bank had also sold the property under public auction. There were current consumption charges to the tune of Rs.42,05,215/- pending to be paid by the said Mill. He would further submit that since the payment had not been made, the Board is entitled to recover the same from the subsequent purchaser either by adding the said amount to the bill of the subsequent purchaser as per Regulation 17(8) and 17(9) of the Tamil Nadu Supply Code, 2004. He would further submit that since the connection to the said Spinning Mill was disconnected for non payment of consumption charges and the petitioner had not approached for grant



W.P.(MD) No.14602 of 2017

WEB COPY

of any new connection, the present demand had been made and only on failure of the petitioner to pay the amount, the action would be initiated and therefore, there is no illegality in the impugned communication.

4. I have considered the rival submissions made by the learned counsel on either side.

5. It is an admitted case that the petitioner is the current owner of the land by his purchase through auction, which originally belonged to M/S.Subbulakshmi Spinning Mills. The demand has now been made by the respondents against the petitioner for the current consumption charges due from the said Spinning Mill and since the petitioner is the subsequent purchaser, this Court deems it fit that before issuing the said notice, an opportunity of hearing could have been granted to the petitioner, but considering the fact that the notice had been issued in the year 2017 and the writ petition had been kept pending till today, the said impugned notice shall be treated as show cause notice by the petitioner for which he shall submit a reply on or before 20.12.2024 to the second respondent and on



W.P.(MD) No.14602 of 2017

WEB COPY

receipt of such reply, the second respondent shall consider the same and provide an opportunity of hearing to the petitioner before proceeding further.

6. In fine, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

28.11.2024



WEB COPY



W.P.(MD) No.14602 of 2017

K.KUMARESH BABU, J.

mm

W.P.(MD) No.14602 of 2017

28.11.2024