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W.P.No.29630 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.29630 of 2023

and

W.M.P.No.29248 of 2023

Kumaravel

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Palladam Distribution Circle,
No.56-B, Gt Building, Trichy Road,
Palladam, Tiruppur District.

2.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Operation and Maintenance,
Palladam, SS Campus,
P.Vadugapalayam, Udumalpet Road,
Palladam, Tiruppur District.

3.The Assistant Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Operation and Maintenance,
Palladam Distribution Circle,
D.No.5, Manasipalayam Road,
Kethanur,
Palladam, Tiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorari, calling for the records relating to



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the order dated 12.09.2023 in proceedings in
No.Ka.No.U.Me.Pub/Kethanur/V.Aa/Ko.A.Tho/Ve.No.089/23-24 on the file
of the third respondent and quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.L.Jai Venkatesh

ORDER

The order dated 12.09.2023 in proceedings in
No.Ka.No.U.Me.Pub/Kethanur/V.Aa/Ko.A.Tho/Ve.No.089/23-24 on the file
of the third respondent, is put under challenge in the present Writ Petition.

2. Heard the learned counsels on either side.

3. The learned counsel for the petitioner submitted that the petitioner
is the owner of the subject property measuring to an extent of 3.59 $\frac{3}{4}$ acres
and cents comprised in Survey Nos.494/1A, 495/2B and 494/2 situated at
Kethanur Village, Palladam Taluk, Tiruppur District, acquired from one
B.Gnambal and others by way of a registered sale deed dated 11.02.2019.
While that being so, the third respondent had passed an order on 12.09.2023,



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directing the petitioner to pay a sum of Rs.10,99,882/- towards penalty for commission of theft of energy by the erstwhile owner in respect of electricity service connections viz., a)231-004-221; b)231-004-222; c)231-004-223 and d) 231-004-226. He also submitted that after lapse of several years, the respondents had passed the impugned demand, that too, neither notice was issued nor any enquiry was conducted. Hence, the present petition.

4. He also drew the attention of this Court that the subject issue has already been dealt with by this Court wherein it has been held that no demand can be made as against the subsequent purchaser for the theft of energy for the offence committed by the erstwhile owner of the property and accordingly, prayed for setting aside the impugned order of demand.

5. Per contra, the learned counsel for the respondents by relying upon the detailed counter of the respondents submitted that though the petitioner herein is the subsequent purchaser of the subject property where theft of energy has been committed, the respondent Board is entitled to recover the pending dues of the premises from him under Regulation 17(9). She also submitted that the Hon'ble Supreme Court in C.A.No.2109-2110 of 2004 has



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passed some significant findings and observations as to the liability of subsequent purchaser to pay the due of the previous owner. She contended that the order impugned has been passed rightly by the respondent Board as per law and hence, warrants no interference by this Court .

6. Heard the rival submissions made by the learned counsel for the parties and also perused the materials available on record.

7. Admittedly, the petitioner had purchased the subject property measuring to an extent of 3.59 $\frac{3}{4}$ acres and cents comprised in Survey Nos.494/1a, 495/2B and 494/2 situated at Kethanur Village, Palladam Taluk, Tiruppur District, from one B.Gnambal and others by way of a registered sale deed dated 11.02.2019. The said property was previously owned by V.Palanisamy, S.Shanmugasundaram, N.Vishwanathan and M.Paapusamy before Gnambal, wherein there existed four service connections as stated earlier under Tariff-IIIA in their name individually. On inspection, it was found that theft was committed by the aforesaid persons in all the service connections and therefore, the respondents filed a criminal case as against the Palanisamy and others in Cr.Nos.123,124,126 of 1999 and a fine amount of Rs.10,99,882 was levied vide order dated 24.05.1999 and aggrieved by



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the same, they filed suits in O.S.Nos.241, 243, 244 & 245 of 1999, which were dismissed by the trial Court.

8. It is not disputed by the respondents that the petitioner had purchased the subject property from one Gnanambal through a registered sale deed, who had purchased the said property from the offenders and hence, the petitioner herein is a third party. As against the subsequent purchaser / third party, the present impugned order was issued.

9. At this juncture, it is relevant for this Court to refer to a similar issue dealt by this Court in W.P.No.311 of 2022 [K.Hariprasad Vs. Tamil Nadu Generation and Distribution Company Ltd., (TANGEDCO), rep. by its Chairman cum Managing Director, Chennai and another] dated 22.06.2022, wherein this Court has held as follows:

“14. In view of the law laid down by the Hon'ble Division Bench of this Court, which has been followed by another learned Single Judge of this Court referred to supra, the impugned demand made against the petitioner calling upon the petitioner to pay penalty amount of rs.2,16,01,378/- for the alleged theft of electricity committed by his



vendor is arbitrary and illegal. Therefore, the impugned order has to be necessarily quashed and the writ petition will have to be allowed. Accordingly, the impugned order dated 27.10.2021 passed by the second respondent is hereby quashed and the writ petition is allowed. No costs.

15. In view of allowing of the writ petition, the petitioner is permitted to submit a fresh application to the respondents seeking for electricity connection and on receipt of the said application, the respondents shall consider the same on merits and in accordance with law within a period of twelve weeks thereafter.”

10. Furthermore, in yet another identical case dealt by the learned Single Judge of this Court in ***S.Kavitha Vs. The Chairman, TANGEDCO, Tamil Nadu Electricity Board, Chennai and 2 others [W.P.No.11580 of 2021 dated 28.10.2021]*** wherein this Court has held that the concept of vicarious liability is unknown to criminal law since the commission of a crime involves *mens rea* and the same can be attributed only to the person, who commits the crime and it cannot be shifted to any one else. The relevant portions of the order reads as under:



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“6.It is clear from the above that insofar as the payment of penalty towards current consumption by theft of energy, the same can only be imposed against the occupier of the property who committed such theft of energy and the liability cannot be shifted to any other person. The compounding fee or the penalty as the case may be is collected more by way of a punishment against the offender who committed theft of energy. It is trite law that insofar as commission of offences are concerned, the consequences of the same can never be shifted to any other person from the offender. The concept of vicarious liability is unknown to criminal law since the commission of a crime involves mens rea and the same can be attributed only to the person who commits the crime and it cannot be shifted to anyone else. Therefore, this Court is in complete agreement with the reasoning of the learned Judge in the above judgment.



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7.Insofar as Regulation 17(4) of the Supply Code is concerned, the learned Judge has again categorically held that the same will not apply in cases falling under theft of energy. The reason assigned by the learned Judge to the effect that this Regulation will apply only in case of recovery of lawful dues from the consumer, makes all the difference when it comes to the same recovery being attempted to be made by way of penalty in cases of theft of energy. The recovery from the subsequent consumer with regard to the pre-existing charges will only confine itself to the lawful charges and it cannot be extended to penalty that is imposed for theft of energy.

8.In the considered view of this Court, the above judgment will squarely apply to the facts of the present case and hence the demand made by the 2nd respondent through the impugned proceedings



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dated 20.04.2021, is unsustainable in law. It goes without saying that this amount is recoverable from the person who committed the theft and it is always left open to the respondents to proceed against the offender.

9.In view of the above discussion, the impugned proceedings of the 2nd respondent dated 20.04.2021 is hereby quashed and there shall be a direction to the 2nd respondent to process the application submitted by the petitioner on 05.03.2021 after collecting the necessary charges and the service connection shall be effected in the name of the petitioner, within a period of two weeks from the date of receipt of copy of this order.

10.As a result, this writ petition stands allowed with the above direction. No Costs. Consequently, connected miscellaneous petition is closed.”



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11. In view of the foregoing reasons and in the light of the orders of this Court as stated supra, the impugned order passed by the third respondent dated 12.09.2023, is hereby set aside and consequently, the Writ Petition stands allowed. However, the respondents are at liberty to take action in regard to recovery against the persons, who have committed the theft. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

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Index: Yes/No

NCC : Yes/No

Order : Speaking/Non Speaking

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M.DHANDAPANI.J.

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