



WP(MD) No.11185 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
13.12.2024

PRONOUNCED ON
31.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.11185 of 2017 &
WMP.(MD)No.8571 of 2017

Sasi Rekha

... Petitioner

VS.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
K.Pudur, Madurai.

2.The Executive Engineer,
Executive Engineer's Office,
Revenue North Branch,
Arasaradi, Madurai.

3.The Assistant Executive Engineer,
Executive Engineer's Office,
Revenue North Branch,
Arasaradi, Madurai.

4.The Assistant Engineer,
Tamil Nadu Electricity Board,
P.P.Chavadi, Madurai – 16.

5.The Assistant Accounts Officer,
Revenue Branch North, Perunagar,
T.N.E.B., K.Pudur,
Madurai.

... Respondents



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PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned proceedings the fourth respondent in ka.No.Oupo/na/pisa/ovma/ko.katu/aNo.083/17, dated 28.03.2017 and the subsequent impugned proceedings of the second respondent in KaNo.Sepo/pa/va/ ovkaa/va /peru/mathu/kumo/6/ko/A No.103/17, dated 17.05.2017 and quash the same as illegal and pass such further order.

For Petitioner : M/s.T.K.Akalya

For Respondents : Mr.S.Deenadhayalan
Standing counsel

ORDER

The Writ Petition had been filed to quash the impugned proceedings passed by the fourth respondent dated 27.03.2017 and the subsequent proceedings passed by the second respondent dated 17.05.2017.

2. Heard Ms.T.K.Akalya, learned counsel appearing for the petitioner and Mr.S.Deenadhayalan, learned Standing counsel appearing for the respondents.

3. The learned counsel appearing for the petitioner would submit that she had been provided with a service connection in her name in respect of



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the house owned by her mother. When that being so, by impugned proceedings dated 28.03.2017, the fourth respondent herein had directed the petitioner to pay a sum of Rs.28,00,494/- as penalty towards an alleged electricity theft in connection with the another service number, failing which the said dues would be added to the electricity bill of the petitioner. She would submit that the petitioner has no connection with the alleged service connection in which theft of energy is alleged. She would submit that it is the case of the respondent that the petitioner's husband was running a Ice factory in the name of M/s.Sasi Ice Company where the electricity theft had been alleged. She would submit that the petitioner's husband never owned any such Ice factory, as the Corporation did not grant permission to do so. She would further submit that the service connection to the said Ice company stood in the name of one Mr.Sikkander and the same was run by one Periyasamy and the said Sikkander. The petitioner's husband do not have any connection with the said Ice factory. She would submit that the petitioner cannot be mulcted upon the liability of a service connection standing in the name of third parties and that such claim can only be either added to another service connection of the person, who had committed theft/default or to the property to which the service connection



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has been given. In the present case, both the said parameters are not available for the demand made in the impugned proceedings. On the same demand, the second respondent had also issued the claim against the petitioner and hence, the petitioner approaches this Court challenging the said impugned orders.

4. Countering her arguments, the learned Standing counsel appearing for the respondents would submit that the petitioner's husband had been running one Ice Factory in the name of M/s.Sasi Ice Company, and has also provided with the electricity service connection and he had committed an act of theft. He would further submit that the husband of the petitioner had in partnership with one Mr.Sikkander had been running the Unit and the husband of the petitioner had also filed an undertaking to the said effect that he along with one Mr.Sikkander is carrying on the business in the name of M/s.Sasi Ice Company. Since there has been a default in said payment, proceedings have been initiated under the relevant provisions as available under the Electricity Act and the Supply Code and therefore, the petitioner is liable to make good the payment of loss that had been caused to the Department by the husband of the petitioner. He would further submit that



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the pendency of the Criminal case against the persons, who are incharge of the business cannot be said to be a bar to initiate the recovery proceedings, as the criminal proceedings are independent to that of the proceedings initiated by the respondents. Hence, he would seek dismissal of the Writ Petition.

5.I have heard the learned counsels appearing on either side and perused the materials placed on record.

6.The petitioner had provided a typed set of papers, in which it is seen that the theft has been alleged in the electricity service connection. This electricity connection stands in the name of one Mr.Sikkander. The petitioner's contention is that under the provisions of the Code, the charges payable to a particular electricity connection standing in the name of the third party cannot be mulched upon her.

7.It is to be noted that the charges payable by a person who holds the service connection fails to make such payment, then the said charges can be added to an another service connection standing in the name of the person



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holding the said service connection and if such no service connection is available, then the same can be made as a charge on the property for which the dues have not been discharged by the service holder. The same is envisaged under Regulation 17(8) of the Tamil Nadu Electricity Supply Code. Regulation 17(8) mandates that if a consumer has more than one service connection, if he defaults in payment of dues relating to any one of the service connections, the licensee may cause other service connections in the name of the consumer to be disconnected on issuing proper notice till the arrears due for all the service connections are paid.

8. “Consumer” has been defined under the Code to mean a person not only the owner, but also any other person who is supplied with electricity of his own use and also includes any person, whose premises are for the time being connected for the purpose of receiving the electricity.

9. A conjoint reading of the Regulation 17(8) and the definition 2(g) of the Code would indicate that the petitioner was neither the consumer, who had been effected with electricity connection of which theft is alleged nor the owner of the premises where the alleged theft is committed.



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Therefore, the petitioner cannot be proceeded with by the respondents for the default of payment of a electricity connection which stood in the name of the third party.

10.In such view of the matter, the Writ Petition is allowed and the impugned proceedings are set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

31.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To



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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
W.P.(MD)No.11185 of 2017 &
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