APHC010601452008

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE 29th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 24688 OF 2008

Between:

1. M/S. GANAPATHI OIL COMPANY, W.G. DIST., Satti Bulli Veeramma, W/o. Late Gopal Reddy, Female, R/o. Santhi Nagar, 2nd Ward, Patimeedha Centre, Town, Nidadavole, West Godavari District.

...Petitioner

AND

1. EASTERN POWER DISTRIBUTION COMPANY 2 OTHERS, Limited, rep.by its Assistant Divisional Engineer, Operation, Nidadavole, West Godavari District.

2. The Assistant Accounts Officer ERO EasternPower, Distribution Compnay of AP Limited, Nidadavole, West Godavari District.

3. The Assistant Engineer APEPDCL/Town/, Nidadavole, West Godavari District.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in demanding the balance 50% of provisionally assessed amount and threatening to disconnect power supply for

failure thereof, pursuant to provisional assessment notice vide Letter No. ADE/O/NDD/F.Doc. 432/D.No. 2269/2006 dt. 30-12-2006 and Consequential Notice No. ADE/OSD/NDD/F.No./D.No. 1471/08 dt. 8-10-2008 is illegal, irregular, without jurisdiction and violative of principles of natural justice, The Electricity Act, 2003 and Rules and Regulations framed there under and offends articles 14 and 21 of Constitution of India and consequently direct the Respondents to continue power supply to Petitoner's service connection No. 5977/Cat-II Nidadavole Town without insisting upon payment of any amount and pass

IA NO: 1 OF 2008(WPMP 32224 OF 2008

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to continue power supply to petitoner's service connection No. 5977/Cat-II Nidadavole Town Pursuant to provisional assessment notice vide Letter No. LR No. ADE/O/NDD/F.Doc. 432/D.No. 2269/2006 dt. 30-12-2006 and Consequential Notice No. ADE/OSD/NDD/F.No./D.No. 1471/08 dt. 8-10-2008 issued by the 1st Respondent without insisting upon payment of any amount pursuant thereto pending disposal of the main writ petition and pass

IA NO: 1 OF 2010(WVMP 5435 OF 2010

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased vacate the interim order Dated 11-11-2008 passed in WPMP No. 32224 of 2008 in WP No. 24688 of 2008 to pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to receive the Reply copies on record by allowing the leave petition in the above writ petition and pass

Counsel for the Petitioner: NIMMAGADDA SATYANARAYANA

Counsel for the Respondents: V V SATISH (SC for APEPDCL) Counsel for the Respondents:P ANAND SESHU (SC FOR APEPDCL)

The Court made the following order:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 24688 OF 2008

ORDER:

This writ petition is filed under Article 226 of the Constitution of the India seeking the following reliefs:-

> "to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in demanding the balance 50% of provisionally assessed amount and threatening to disconnect power supply for failure thereof, pursuant to provisional assessment notice vide Letter No. ADE/O/NDD/F.Doc. 432/D.No.2269/2006 dt.30-12-2006 and Consequential Notice No.ADE/OSD/NDD/F.No./D.No. 1471/08 dt.8-10-2008 is illegal, irregular, without jurisdiction and violative of principles of natural justice, The Electricity Act, 2003 and Rules and Regulations framed there under and offends articles 14 and 21 of Constitution of India and consequently direct the Respondents to continue power supply to Petitioner's service connection No. 5977/Cat-II Nidadavole Town without insisting upon payment of any amount and pass.

2. Heard learned counsel for the petitioner and learned Standing Counsel for APEPDCL.

3. The case of the petitioner is that the respondents are threatening to disconnect the power supply pursuant to the notice dated 30.12.2006, demanding payment of 50% of the assessed amount of Rs.59,203/- on account of the alleged pilferage or theft of energy. Pursuant to the provisional assessment notice dated

30.12.2006, the petitioner paid an amount of Rs.27,000/- towards the compounding fee for the alleged offence of pilferage or theft of energy on the same day, i.e., 30.12.2006. Thereafter, the power supply was restored. While things stood thus, the 1st respondent served another notice dated 08.10.2008, thereby demanding payment of the remaining 50% of the provisionally assessed amount within seven days from the date of receipt of the notice, failing which the power supply would be disconnected. Aggrieved by the action of the respondents, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the pilferage or theft of energy has to be decided by the competent Special Court under Section 154(5) of the Electricity Act, 2003. However, the respondents did not refer the matter to the Special Court for determination of the civil liability against the consumer/petitioner herein, as contemplated under Section 154(5) of the Electricity Act, 2003.

5. On the other hand, learned Standing Counsel submits that the petitioner has not filed any objections, as contemplated under Section 126(3) of the Electricity Act, 2003, pursuant to the notice dated 30.12.2006, due to which the respondents issued the notice dated 08.10.2008, demanding payment of the remaining amount as per the provisional assessment notice dated 30.12.2006. He further submits that, in view of Section 154(5) of the Electricity Act, 2003, the liability of the petitioner/consumer on account of the pilferage or theft of energy shall be determined by the Special Court as constituted under the Act. He further submits that, a direction may be given to the respondents to refer the matter to the

competent Special Court having jurisdiction for such determination.

6. For better understanding, it would be appropriate to extract the following provisions of the Electricity Act, 2003:

> "**Section 126(3):** The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person.
> **Section 154(5):** The Special Court shall determine the civil liability against a consumer or a person in terms of money for theft of energy, which shall not be less than an amount equivalent to two times the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft, if determined, whichever is less, and the amount of civil liability so determined shall be recovered as if it were a decree of a civil court."

7. Having regard to the submissions of learned counsel for the petitioner and learned Standing Counsel, and on perusal of the provisions extracted hereinabove, it is clear and categorical that the petitioner is entitled to submit an explanation or objections to the provisional assessment notice dated 30.12.2006. The civil liability arising out of the alleged theft of energy is required to be determined by the Special Court under Section 154(5) of the Electricity Act, 2003. However, without referring the matter to the Special Court, the respondents have issued the final demand notice dated 08.10.2008.

8. Accordingly, this Writ Petition is disposed of, directing the respondents to refer the matter to the Special Court for determination of the civil liability, as contemplated under Section 154(5) of the Electricity Act, 2003.

9. There shall be no order as to costs.

As a sequel, all the miscellaneous applications pending, if any, shall also stand closed.

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