

(2011) 08 MAD CK 0282

In the Madras High Court

Case No : Writ Petition (MD) No. 3848 of 2006 and W.P. (MP) (MD) No. 4051 of 2006

Hajee N. Sheik Ishak

APPELLANT

Vs

The Superintending Engineer, Tamil Nadu Electricity Board
and The Assistant Engineer, Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 04-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0282

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : V.K. Vijayaraghavan, for the Appellant; M. Suresh Kumar, Standing Advocate for TNEB, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The Petitioner prays for the issuance of a Writ in the nature of Mandamus, directing the Respondents to restore the electricity connection of the Petitioner, in S.C. No. 233, R.M.S. Colony, Thanjavur.

2. The undisputed facts leading to the filing of the Writ are, that the Petitioner is running a Cinema Theatre in the name and style of "Parveen Theatre" at Nanjikottai Road, Thanjavur Town, for several years, and has service connection bearing S.C. No. 233. There are No. arrear for S.C. No. 233 till date.

3. The wife of the Petitioner was also having an independent connection to run "Bobby Ice Factory" in Thanjavur Town bearing connection No. S.C. No. 351/ R.M.S. Colony, Thanjavur. The premises owned by his wife was rented out. On vacation, it was revealed that the tenant had failed to pay a sum of Rs. 90,826/-.The liability was fixed on the wife of the Petitioner, which was disputed by her.

4. The contention of the wife was prima facie not sustainable, as the liability to pay for the electricity connection is on the person in whose name the connection

stands. The Petitioner, in any case, is not concerned with the dues of his wife, as the prayer in this Court is only to restore the electricity connection, bearing S.C. No. 233, for which there are No. arrears.

5. This Court by way of interim order, had directed the restoration of electricity connection on payment of Rs. 30,000/- (Rupees thirty thousand only). The electricity connection admittedly stands restored to the Petitioner.

6. The prayer, is challenged by the Respondents, on the ground that the Petitioner had given an undertaking to pay the amount due from his wife, but has failed to keep his undertaking therefore the Respondents have right to disconnect the electricity connection standing in the name of the Petitioner.

7. This stand of the Respondent cannot be accepted. The electricity connection of a consumer can be disconnected only in violation of the terms of electricity supply. The undertaking given on behalf of third party, to meet the liability, is not the condition, for disconnection. The remedy with the Board to recover the amount from the wife of the Petitioner and if so advised, is to proceed for recovering, wherein the Petitioner can be impleaded as party, having undertakes to pay the amount. The Board does not have the right to disconnect the electricity on the ground of arrears, of some other connection.

8. For the reasons stated, the Writ Petition is allowed, and the interim order is made absolute.

9. Consequently, connected Miscellaneous Petition is closed. No. costs.