



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

[3333]

THURSDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 452/2019

Between:

1. THE EASTERN POWER DISTRIBUTION COMPANY OF AP LIMITED,
REPRESENTED BY THE ASSISTANT DIVISIONAL ENGINEER,
OPERATION, TOWN.II/RJY/APEPDCL/RAJARNAHENDRAVAARAM

...APPELLANT

AND

1. P LAXMI TULASI, HINDU, AGE NOT KNOWN, H. NO.6-77/2, SAI
BABA PUNTHA ROAD, PIDMIGOYYI, RAJ AMAHENDRAVARAM.
2. KONCHA RAMACHANDRA RAO, HINDU, AGE NOT KNOWN, D.NO.8-
3-10, SHIIDI SAI MARG, VADREVVU NAGAR, TILAK ROAD,
RAJAMAHENDRAVARAM.

...RESPONDENT(S):

Appeal Under Section_____ against orders pleased to allow the appeal and set aside the order dated 30.11.2018 in OS.SR.No.1716 of 2018 on the file of the Special Court under Indian Electricity Act 2003 cum 1st Additional District Judge, East Godavari, at Rajamahendravaram and pass

IA NO: 1 OF 2019

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 condone the delay of 169 days in representation of the CMASR No. 9334 of 2019 in OSSR No. 1716 of 2018 and to pass

IA NO: 2 OF 2019

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 condone the delay of 36 days in filing the appeal against the order dated 30-11-2018 in OSSR No. 1716 of 2018 on the file of Special Court under Indian Electricity Act 2003 cum 1st Addl. District Judge East Godavari at Rajamahendravaram and pass

Counsel for the Appellant:

- 1.V V SATISH (SC for APEPDCL)

Counsel for the Respondent(S):

- 1.BOLLA VENKATA RAMA RAO
- 2.

The Court made the following:

J U D G M E N T:

The appellant filed the present Civil Miscellaneous Appeal, aggrieved by the order dated 30.11.2018 passed in O.S.SR.No.1716 of 2018 on the file of the Special Court under Indian Electricity Act 2003-cum-I Additional District Judge, East Godavari at Rajamahendravaram.

2. The appellant/applicant is the Eastern Power Distribution Company. The 1st respondent is the registered consumer and the 2nd respondent is the beneficiary of electricity under S.C.No.1433800220027936, Category LT3(A)(I) Industrial Normal of Morampudi Village (distribution) of Rajamahendravaram-D7 Section.

3. Brief facts of the case are that an inspection was conducted by A.E./D.P.E.-1/RJY on 21.06.2016 to the Service Connection No.1433800220027936 of the respondents. During the inspection, it was noticed that approximately 20 to 25 cms bent U-shape wire was inserted from the top cover of the meter through two artificial holes made in the meter, touching the disk of the meter and thereby stopping its rotation. It was concluded that the consumers had dishonestly abstracted and utilized power supply by meddling with the internal mechanism of the meter by obstructing the rotation of the disc and thereby committed theft of energy under Section 135 of the Electricity Act, 2003.

4. Thereupon, the inspecting officer prepared an inspection report dated 21.06.2016 and made an assessment of the loss sustained by APEPDC

Limited, including supervision charges and reconnection charges, in a sum of Rs.6,36,675/-. The same was communicated to the applicant for taking further action for recovery of the value of the energy pilfered. By virtue of the powers vested in him under the General Terms and Conditions of supply, he demanded payment of Rs.6,36,675/- towards the value of the energy pilfered under a provisional assessment notice dated 23.06.2016, providing an option to the 1st respondent to pay 50% of the assessed amount plus reconnection charges and supervision charges if the respondent was desirous of restoration of supply, and to pay balance 50% amount in installments pending final determination of civil liability under Section 154(5) of the Electricity Act read with the General Terms and Conditions of Supply. Further, a criminal case in Crime No.967 of 2016 was registered by the APTS Police against the respondent on the complaint lodged by the inspecting officer for the offence of theft of energy punishable under Section 135 of the Electricity Act.

5. It is further stated that the respondent, even without making payment of 50% of the provisional assessment amount, approached this Court by filing W.P.No.13311 of 2016 questioning the validity of the provisional assessment notice dated 23.06.2016 and seeking a direction not to disconnect the service connection pending disposal of the writ petition. This Court, by a common order dated 19.09.2016, while disposing of the writ petition, directed restoration of power supply subject to the condition of payment of 50% of the amount towards the value of the energy pilfered and further directed the petitioner to refer the dispute relating to final liability under Section 154(5) of

the Act to the competent Court. However, the Special Court raised an objection with regard to the maintainability of suit/application under Section 154(5) of A.P. Electricity Act for determination of civil liability.

6. It is stated that the appellant re-submitted the suit/application with an endorsement stating that the explanation to sub-Section (6) of Section 154 of the Act defines “civil liability” as loss of damage incurred by the Electricity Board due to the commission of an offence referred to in Sections 135 to 139 of the Act. As per the definition of civil liability under the explanation to Section 154(6) of the Act, the term ‘civil liability’ under Section 154(5) refers to civil liability arising due to the commission of offences referred to in Section 135 to 139. Therefore, the Special Court is invested with the power to determine the civil liability against a consumer like the respondent herein who has indulged in theft of energy.

7. After careful consideration of the oral and documentary evidence, the Court below returned the application on the ground that only a crime was registered and no charge sheet or report under Section 173 Cr.P.C. was filed and, therefore, when the matter had not reached the stage of disposal of the criminal case, the question of determination of civil liability does not arise. Thus, the Electricity Application O.S. filed by the appellant was unsustainable.

8. Heard Mr.V.V.Satish, learned counsel for the appellant and Mr.Bolla Venkata Rama Rao, learned counsel for respondent No.2.

9. Learned counsel for the appellant has furnished a copy of the order dated 19.12.2023 passed by this Court in C.M.A.No.514 of 2019, wherein, under similar circumstances, the application submitted by the appellant was dismissed on similar grounds. In the said case, this Court allowed the appeal by setting aside the impugned order on the ground that the criminal case and the civil liability stand on independent footing and the same cannot be interlinked with each other, and that the civil liability is to be determined independently by the Special Court under Sections 153 and 154 of the Indian Electricity Act. The operative portion of the said order reads as follows:

“Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the Order dated 26.09.2018, passed in O.S.SR.No.1355 of 2018, on the file of Special Court under Indian Electricity Act, 2003-Cum-I Additional District Judge, East Godavari, at Rajamahendravaram, and remanded the matter back to the Court below for fresh consideration. Further, the Court below is directed to complete the trial and conclude the enquiry and pass appropriate reasoned order, in accordance with law, by affording an opportunity to the appellant, as expeditiously as possible, from the date of receipt of a copy of the order.”

10. In view of the same and for the reasons alike in the aforesaid order, this Civil Miscellaneous Appeal is also allowed in terms of the order dated 19.12.2023 passed by this Court in C.M.A.No.514 of 2019. There shall be no order as to costs.

11. Registry is directed to attach a copy of the order in C.M.A.No.514 of 2019 dated 19.12.2023, to this order. There shall be no order as to costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 19.02.2026
KGR