

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

APPELLATE SIDE

W.P.

No.

7087

OF 2021

AGAINST

No.

OF 2021

On the file of the Court of

Appellant/
Petitioner

V E R S U S

Respondent

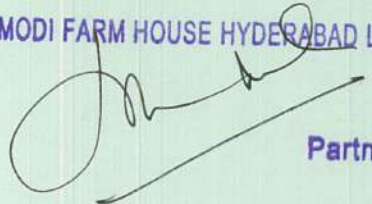
I/We

Appellant/Respondent in the above application do hereby
appoint and retain

PERI PRABHAKAR (6390)
ADVOCATE

Advocate/s of the High Court to appear for ME/US in the above APPEAL/PETITION and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including all applications for return of documents or the receipt of any money that may be payable to ME/US in the said Appeal/ Petition and also to appear in all applications under Clause XV of the Letters patent and in all applications for review and for leave to the Supreme Court of India and in all applications for review of Judgment.

For MODI FARM HOUSE HYDERABAD LLP



Partner

I certify that the contents of this Vakalat were read out and explained in (.....) in my presence to the executants of executants who appeared perfectly to understand the same and made his /her/their signatures or mark in my presence.

Executed before me thisday of2021

Advocate, Hyderabad

S.R. No.

District

IN THE HIGH COURT FOR THE STATE
TELANGANA AT HYDERABAD

APPELLATE SIDE

No.

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VAKALAT

ACCEPTED

Appellant
Counsel for Petitioner
Respondent

PERI PRABHAKAR (6390)
ADVOCATE

Appellant
Advocate for Petitioner
Respondent

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**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

W.P. NO. 7087 OF 2021

BETWEEN:

MODI FARM HOUSE (HYDERABAD) LLP

Rep. by its Managing Partner Soham Modi,

Aged about 50 Year, Occ: Business,

Sy. No.33, 43, 44 & 46, Yenkapally,

Chevella, Ranga Reddy District.

...Petitioner.

AND

1. Southern Power Distribution Company of Telangana Limited (TSSPDCL), rep., by its Managing Director, Mint Compound, Hyderabad.
2. Superintending Engineer-Assessments, Southern Power Distribution Company of Telangana Limited Mint Compound, Hyderabad.
3. Divisional Engineer - Assessments, Southern Power Distribution Company of Telangana Limited 1st Floor, 33/11 KV CM Camp Office Sub-Station, Punjagutta, Hyderabad.
4. Asst. Divisional Engineer (Operation) Southern Power Distribution Company of TG Ltd., Chevella, Ranga Reddy District.

....Respondents

AFFIDAVIT

I, Soham Modi, S/o Late Satish Modi, Aged 50 years, Occupation: Business, R/o. Sy. No.33, 43, 44 & 46, Yenkapally, Chevella, Ranga Reddy District, Telangana State, do hereby solemnly affirm and state on oath as follows.

1. I am the Managing Director of the Petitioner LLP and as such I am well acquainted with the facts of the Case.

For MODI FARM HOUSE HYDERABAD LLP

Partner

2. The Petitioner is filing the present writ petition questioning the orders passed by the 3rd Respondent herein in Case No. DPE/RRS/SD02/16946/20 dated 25.01.2021 whereby the Provisional Assessment Order issued earlier on 16.10.2020 was confirmed and finalized and the petitioner was directed to pay an amount of Rs.16,29,244/- + Rs.100/- towards the unauthorized use of electricity by the petitioner. It is submitted that the facts of the case are as follows:

Facts of the case:

3. The petitioner herein respectfully submits that it is carrying on construction business since decades under the name and style of "MODI PROPERTIES PVT LTD" around vicinity of twin cities of Hyderabad and Secunderabad while constructing quality Farm Houses. The Petitioner herein submits that they are holding high reputation in the market and doing the business within the ambit of law and have not violated any rules and regulations at any point of time as framed by the respective Govt Departments and they are law abiding citizens.

4. The Petitioner respectfully submits that they have constructed 50 Farm Houses in Yenkapally, Chevella Collectively under the name and style of "M/s. Modi Farm House Hyderabad LLP" in Sy. Nos.33, 34, 43, 44 & 46 situated at Yenkapally, Chevella, R.R. District. The petitioner further submits that they have applied for one electricity connection for the supply of power to the Divisional Engineer, Operation, Vikarabad Division, TSSPDCL, Vikarabad under the commercial category for the purpose of construction in the year 2015 and after following all the norms and conditions and upon

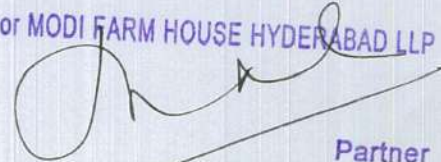
For MODI FARM HOUSE HYDERABAD LLP

Partner

making the payment as fixed by the authorities have installed one meter of 3 phase capacity under 5KW category and started the power supply and this petitioner has paid all the bills for the power consumption from time to time and there is no dispute on it.

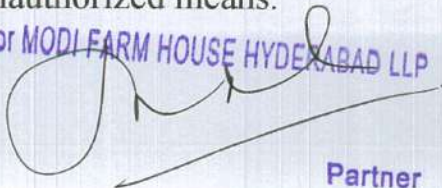
5. The petitioner further submits that in the year 2017 some of the farm houses were completed and the rest were in various stages of completion. Entire construction work was completed in December 2020. This petitioner in 2017 has applied for the 50 Nos electricity meters for 3 phase capacity under 5KW category for the 50 farm houses and one common meter of 3 phase capacity under 20 KW category to the Superintendent Engineer, Operation, Cybercity Circle, TSSPDCL, Cybercity, Hyderabad and after thorough inspection of the completion of construction of entire project by the authorities of TSSPDCL and upon making the payment as fixed by the TSSPDCL and following all the rules and regulations TSSPDCL has sanctioned all the electricity meters and started the power supply from December 2018.

6. The petitioner respectfully submits that on 15.10.2020 at about 15:05 hours Sri S. Laxmi Rajam, A.E. SD-II, DPE RR South has visited our premises and alleged that we are drawing unauthorized electricity intentionally by diverting the power supply from SC No.7203300500 LT Cat-II to SC.No.2620000550 LT Cat-I and with a view to degrade them in the market and only for the sake of statistical purpose foisted a false case against this petitioner company under Section 126 of Electricity Act, 2003.

For MODI FARM HOUSE HYDERABAD LLP

Partner

7. The Petitioner respectfully submits that the authorities have served a Assessment Calculation Memo along with Provisional Assessment Order wherein they have shown the assessed units which were misused as 1,52,128 units and Assessment period from 22.12.2018 to 15.10.2020 which is absolutely false to its core, whereas from the perusal of the records for the alleged meter of the actual units consumed for the alleged period from December 2018 to October 2020 is 1,27,844 units, the authorities fail to explain how they assessed the misused units to a total of 1,52,128 units when their case is not of drawing of power supply from a direct loop or Theft, if at all any discrepancy has been appeared this petitioner would have been charged for the difference of amount.

8. The petitioner further submits that the consumers are layman and doesn't know the inner procedure and the rules of the TSSPDCL. Since its a large construction company where all the works were divided and delegated to the respective persons this objection petitioner is ignorant of unauthorized drawing of electricity as alleged. The consumption of electricity of the petitioner in the alleged meter was at an average of 5,908 units per month for the alleged period and according to the Rate Supply Tariff Schedule for FY 2018-19 for the LT-I is Rs.9.50 paisa for the consumption of more than 800 units and for the LT-II B the rate is Rs.10.00 for the consumption of more than 500 units. It is further submitted that when this petitioner is already paying the electricity bills for the alleged meter at the rate of Rs.9.50 paisa per unit there is no need for the petitioner to resort for an illegal thing to save Rs.0.50 paisa per unit by drawing electricity by unauthorized means.

For MODI FARM HOUSE HYDERABAD LLP

Partner

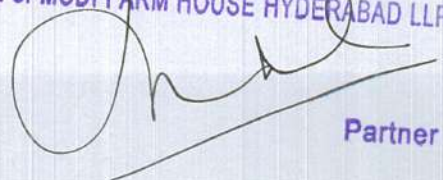
9. It is respectfully submitted that as per the rules for the employees laid down by TSSPDCL/Southern Power Distribution Company of TG Limited the officer's designated for meter reading from time to time are as follows:

All LT Categories other than LT Industrial:

- (i) Category I Single Phase Services the Designated Officer is Area Line Man.
- (ii) Category II & VII Single Phase Services the Designated Officer is Line Inspector.
- (iii) All other categories and all 3 Phase Services the Designated Officer is A.E. / Operation.

10. The petitioner further submits that as from the above table it clearly shows that A.E. / Operation has been designated to take the meter reading and issuance of electricity bills for the consumed units for all other categories and all 3 Phase Services, so when the consumption of the alleged meter is continuously showing more than 4000 units and it is with in the knowledge of the A.E. / Operation Chevella as it comes under his jurisdiction then why A.E./Operation Chevella after scanning it for three months has not identified such heavy consumption in this alleged category meter and intimated this to the Objection Petitioner herein so that it would have been rectified it in an earlier stage why he waited upto 2 years for the best reasons known to him, this act of A.E., Operation Chevella clearly shows his intention only to harass this Objection Petitioner by filing a false and frivolous case of drawing of unauthorized utilization of power supply under Section 126 of Electricity Act, 2003.

For MODI FARM HOUSE HYDERABAD LLP



Partner

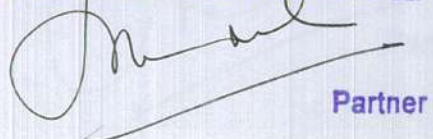
11. The petitioner respectfully submits that this petitioner has paid all the electricity bills pertaining to the alleged meter for the alleged period i.e. from December 2018 to October 2020 to a total amount of Rs.12,60,864/- and there are no dues to be paid. It is further submitted that as a precondition to file the objections against the Provisional Assessment Order the Petitioner has paid the 50% of the assessed amount i.e. Rs.8,15,522/- vide Receipt No.24323 & 24324 dated 28.10.2020 through demand draft vide no.349448 & 349447 dated 27.10.2020 drawn on Yes Bank Ltd., Somajiguda Branch, Hyderabad and the copy of the same is enclosed herewith for kind perusal.

12. The petitioner respectfully submits that the Respondent herein has served the list of appliances names along with their wattage in the Assessment Calculation which were 5 Nos Bore motors, 6 Nos AC's and 6 Nos geysers were connected to the alleged meter which is a common meter. It is further submitted that out of the 5 bore wells only two bore wells are under working condition while supplying water to all the farm houses and gardening of the entire site since they are under common amenities and maintenance of the total farm houses they have been connected to the common alleged meter and the remaining three bore wells have been completely dried up, with regard to the AC's and geysers they were installed very recently and they are in the sample guest farm house.

FOLLOWING ARE THE OBJECTIONS FILED AGAINST THE PROVISIONAL ASSESSMENT ORDER IN CASE No.DPE/RRS/SDO2/16946/20, Dt. 16.10.2020, U/s. 126 OF I.E. ACT, 2003.

- 1) The filing of above case on this Petitioner is false and illegal and has no legs to stand on it.

For MODI FARM HOUSE HYDERABAD LLP

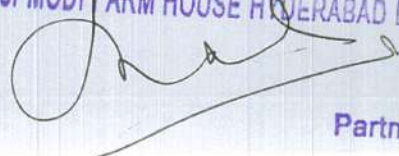

Partner

8) The water is drawn from the bore wells and the electricity consumed is for the gardening and for the maintenance of the villas meant for common areas only and not for construction purpose.

9) The alleged meter is a common meter of 3 phase category LT-I under the capacity of 20 KW and the borewell enlisted by the 4th Respondent in the assessment calculation is for the entire common area of farm houses.

13. It is submitted that the 4th Respondent herein has passed a Provisional Assessment Order dated 16.10.2020 in Case No. DPE/RRS/SDO2/16946/20 directing the petitioner to place any objections it has to the said order before the 2nd Respondent or the 3rd Respondent within 15 days from the date of service of the order. Immediately the petitioner has made representation to the 2nd Respondent with all the objections as mentioned above. It is submitted that final orders were passed by the 3rd Respondent on 25.01.2021 which are now impugned in the present writ petition. It is submitted that none of the objections raised by the petitioner are taken into consideration and unilaterally the 3rd Respondent arrived at a conclusion that the orders passed in the Provisional Assessment Order are correct and valid and directed to pay the amount of Rs.16,29,244/- within 30 days from the date of issue of the said order. It is submitted that earlier itself the petitioner has made a representation dated 27.10.2020 that the difference in consumption charges for LT-1B and LT-2B is only 0.50 paise per unit and even going by the calculations of the Respondents in respect of consumption of power for 1,27,844 units the difference in payment would be only Rs. 63,922/-. Further it was also pointed

For MODI FARM HOUSE HYDERABAD LLP



Partner

out before the Respondents that no sane person would resort to unauthorized consumption for saving Rs.0.50 paisa per unit even while paying Rs.9.50 per unit. All these facts were clearly placed before the 3rd Respondent but however on the basis of imaginary calculations, ignoring the submissions and on the basis of some imaginary admissions made by the petitioner's counsel before 3rd Respondent, the orders of the 4th Respondent were confirmed. The said order is illegal, unsustainable and liable to be set aside.

14. It is submitted that the impugned order contains a statement that an appeal against the present order lies to the 2nd Respondent herein. However, it is submitted that the said appellate remedy is not an effective alternative remedy as all the officials are employees of the Company and there cannot be any expectation of justice from them. It is submitted that the petitioner has paid 50% amount demanded during the pendency of the proceedings before the 3rd Respondent and the impugned order is clearly arbitrary and illegal and as such the petitioner is filing the present writ petition.

15. The petitioner has no other equally efficacious alternative remedy except to approach this Hon'ble Court invoking the extra ordinary original jurisdiction vested in this Hon'ble Court under Article 226 of The Constitution of India.

16. The petitioner has not filed any other Writ Petition or proceeding for the same relief which is claimed in the present Writ Petition and no other

For MODI FARM HOUSE HYDERABAD LLP



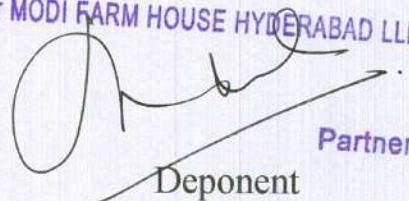
Partner

proceedings are pending before any other forum with respect to the same subject matter.

17. It is necessary that the Hon'ble Court may be pleased to grant stay of all further proceedings pursuant to the orders passed in Case No. DPE/RRS/SD02/16946/20, dated 25.01.2021 including recovery proceedings pending disposal of the Writ Petition.

18. It is therefore prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the orders passed in Case No. DPE/RRS/SD02/16946/20, dated 25.01.2021 by the 3rd Respondent herein as arbitrary, illegal and unsustainable and consequently set aside the same and consequently issue further direction to the Respondents to continue supply of power to the petitioner in all its connections and pass such other order or orders in the interest of justice.

Sworn and signed before me on
this the 18th day of March 2021
at Hyderabad.

For MODI FARM HOUSE HYDERABAD LLP

Partner
Deponent

Advocate/Hyderabad

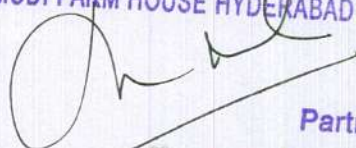
VERIFICATION

I, Soham Modi, S/o Late Satish Modi, Aged 50 years, Occupation: Business, R/o. Sy. No.33, 43, 44 & 46, Yenkapally, Chevella, Ranga Reddy District, Telangana State, being the deponent herein and Managing Director of the Petitioner do hereby verify and declare that the above paragraphs are true and correct to the best of my knowledge, information and belief and as per legal advice.

Verified on this the 18th day of March 2021 at Hyderabad.

Counsel for the Petitioner

For MODI FARM HOUSE HYDERABAD LLP



Partner

Deponent

