

In the High Court of Judicature at Madras

Dated: 01.10.2015

Coram:

The Honourable Mr.Justice SATISH K. AGNIHOTRI
AND

The Honourable Mr.Justice K.K.SASIDHARAN

W.A.No.1012 of 2015
& M.P.No.1 of 2015

A. Shakila

..Appellant

vs.

1. The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai-600 002.

2. The Junior Engineer
Tamil Nadu Electricity Board
Baba Nagar, Villivakkam
Chennai-600 049.

3. P. Sumithra

..Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order in W.P.No.4313 of 2014 dated 29.10.2014. (Prayer amended as per order dated 8.9.2015 in M.P.No.2 of 2015)

For Appellant : Mr.A. Rajesh Kanna
for Mr. M.V. Muralidharan

For Respondents : Mr. P.R. Dhilipkumar for RR1 and 2
Mr. V. Chandrasekaran for R.3

Prayer in W.P.No.4313/14:-

To issue a writ of Mandamus, directing the respondents 1&2 to consider the petitioners representation dt.1.2.14 thereby direct the respondents 1&2 to provide separate commercial service connection to the petitioners shop situated at M/s.Jas collections No.12/1, senthil Nagar 1st Main Road, Kulathur, Chennai -9 is her name as tenant of the 3rd Respondent.

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J)

The appellant is primarily aggrieved by the observations made by the learned Single Judge while allowing the writ petition in W.P.No.4313 of 2014.

2. The appellant filed writ petition in W.P.No.4313 of 2014 for issuance of a writ of Mandamus directing the respondents 1 and 2 to consider her representation and provide a separate commercial service connection to the premises stated to be in her possession and enjoyment.

3. While allowing the writ petition, the learned Single Judge made certain observations which would indicate that she is in rental arrears. Though the appellant filed a review petition, those observations were not deleted by the learned Single Judge. Feeling aggrieved, the appellant is before this Court.

4. Heard the learned counsel for the appellant, learned counsel appearing for respondents 1 and 2 and the learned counsel for respondent No.3.

5. The only grievance of the appellant is in relation to the observation made by the learned Single Judge with respect to rental arrears which would appear as if she is in arrears of rent.

6. The learned counsel for the appellant contended that the Rent Control Original Proceedings is pending before the Rent Controller. The landlord is making use of the observation to project a case of wilful default.

7. The issue before the learned Single Judge relates to the representation submitted by the appellant for separate electricity connection. It is true that the learned Judge has made certain observations with respect to payment of arrears. The said observations would not go to show that the appellant is in arrears of rent. The observations were made only for the purpose of disposal of the writ petition. We clarify that none of the observations made by the learned Single Judge with respect to arrears of rent would operate as a finding regarding wilful default. In short, it is open to the Rent Controller to decide the Rent Control Original Petition on merits and as per

law without in any way being influenced by the observation made by the learned Singe Judge in the order dated 29 October 2014 in W.P.No.4313 of 2014 and the related order dated 24 November 2014 in Review Application No.298 of 2014.

8. The writ appeal is disposed of with the above clarification. Consequently, the connected MP is closed. No costs.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

Tr/
To

1. The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai-600 002.
2. The Junior Engineer
Tamil Nadu Electricity Board
Baba Nagar, Villivakkam
Chennai-600 049.

+1 cc to Mr.M.V.Muralidharan, Advocate (sr.53556)
+1 cc to Mr.P.R.Dhilipkumar, Advocate (sr.53435)
+1 cc to Mr.V.Chandrasekaran than, Advocate (sr.53425)

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cp 19/10/2015