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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.06.2015

DATE OF DECISION : 01.07.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.33 of 2015
and
M.P.No.1 of 2015

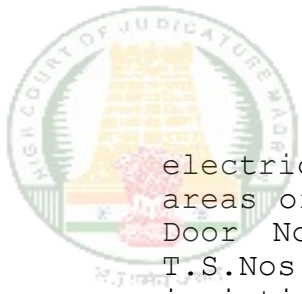
- 1 Tamil Nadu Electricity Board
represented by its Chairman
No.800 Anna Salai
Chennai 600 002
- 2 The Superintending Engineer
(TANGEDCO)
CEDC/Central
Valluvar Kottam
S.S. Complex
MGR Salai, Chennai 600 034
- 3 The Executive Engineer (O & M)
TANGEDCO
T. Nagar, Chennai 17
- 4 The Assistant Executive Engineer (O & M)
TANGEDCO
T. Nagar, Chennai - 17 .. Appellants/Respondents 1to4

Vs.

- 1 Jayanthi Sundhar ..1st Respondent/Petitioner
- 2 The Chennai Metropolitan Development Authority
represented by its Members Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai - 8 ..2nd Respondents/5th Respondent

This writ appeal is preferred under Clause 15 of the Letters Patent against the order of this Court dated 19.11.2014 made in W.P.No. 17612 of 2014.

Writ of mandamus, directing the respondents 1 to 4 herein to receive and consider the application of the petitioner and to provide



electricity service connection to the building and for the common areas of the building put up by the petitioner at Old Door No.42 New Door No.5 North Usman Road T.Nagar Chennai 17 comprised in T.S.Nos.8678 and 8679 Block No.118 of T.Nagar Village without insisting upon completion Certificate/No objection certificate from the 5th respondent.

For appellants Mr. P.R. Dhilipkumar

For R1 Mr. D.S. Rajasekaran

For R2 Mr. N. Sampath

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JUDGMENT

SATISH K. AGNIHOTRI, J.

The instant appeal is directed against the order dated 19.11.2014 passed in W.P.No.17612 of 2014. The writ petitioner / first respondent herein came up with the writ petition seeking for a direction to the appellants / respondents therein to receive and consider the application of the petitioner and to provide electricity service connection to the building and for the common areas of the building put up by the petitioner at old Door No.42, New Door No.5, North Usman Road, T.Nagar, Chennai-600 017 comprised in T.S.Nos.8678 and 8679, Block No.118 of T.Nagar village, without insisting upon completion certificate from the fifth respondent therein.

2 Examining all facts and materials produced before the Writ Court, the learned Single Judge recorded the findings as under :

"17.From the above discussions, this Court is of the view that (1) the petitioner had obtained building plan for constructing new building consisting of stilt + four floors at New Door No.5, North Usman Road, T.Nagar, Chennai-17 in the year 2012. On the strength of sanction plan, the petitioner has constructed the said building and completed the same in the month of November 2013. After one year, from the time of construction of the building, the building has not been occupied by the petitioner and others, due to non supply of electricity service connection. The petitioner has invested a huge amount for raising the building as per plan. Besides availing men power and spending considerable time. Besides valuable construction materials were utilized. (2)The learned counsel appearing for the petitioner had cited unreported judgments rendered in W.A.No.1102 of 2007, W.P.Nos.3847 and 3848 of 2012 and W.P.Nos.5661 and 5662 of 2013 and W.P.No.18314 of 2013 by this Court, wherein it has been stated that the petitioner / New building owner can obtain electricity new service connection without getting no objection certificate from the



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Chennai Metropolitan Development Authority. Besides this, this Court had also given liberty to the Chennai Metropolitan Development Authority to take action against the petitioner, if there is any deviation in the construction put up by the petitioner. The above mentioned judgments have become upheld and operated upon and also the electricity board had complied with the above mentioned orders. (3) Therefore, the respondents are directed to produce new electricity service connection to the petitioner's newly constructed building situated at New Door No.5, North Usman Road, T.Nagar, Chennai-17 without insisting the petitioner to furnish no objection certificate from the Chennai Metropolitan Development Authority. Further, the 5th respondent herein is at liberty to initiate legal action against the petitioner, if the petitioner has violated the sanction plan or deviations are found over the building. (4) This Court reliably learnt that the above cited judgments have not been challenged by the Tamil Nadu Electricity Board / Respondents 1 to 4 herein. Therefore, the respondents 1 to 4 are directed to provide electricity service connection to the petitioner, since the petitioner's case is also identical and this case also is squarely covered with the above mentioned judgments. (5) The petitioner and his counsel are at liberty to mention before this Court, if the respondents 1 to 4 filed a Writ Appeal and challenge this Court's judgment, at once.

18. On considering the facts and circumstances of the case and arguments advanced by the learned counsels appearing on all sides and the views (1) to (5) listed above, this Court is inclined to allow the above, this Court is inclined to allow the above writ petition and directs the respondents 1 to 4 herein to receive the petitioner's application and after considering the same to provide electricity service connection to the building and for the common areas of the building put up by the petitioner at Old Door No.42, New Door No.5, North Usman Road, T.Nagar, Chennai-17, comprised in T.S.Nos.8678 and 8679, Block No.118 of T.Nagar Village, without insisting upon completion certificate / No Objection Certificate from the Chennai Metropolitan Development Authority / 5th respondent herein. However, it is open to the 5th respondent herein to take action against the petitioner herein, if there is any deviation or violation in the construction put up by the petitioner. No costs. Accordingly ordered."

3 The appellants / Electricity corporation has come up with this appeal on the ground that once electricity connection is given



to the building in question, the writ petitioner / first respondent herein may continue with unauthorised construction and as such, the impugned order, directing the appellants to grant connection without completion certificate be set aside.

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4 On the other hand, the learned counsel appearing for the first respondent/ writ petitioner would submit that the petitioner has constructed the premises comprising stilt floor + four floors at Door No.5, Old Door No.42, North Usman Road, T.Nagar, Chennai-17 in T.S.No.8678 and 8679, Block No.118 of T.Nagar village, after proper planning permission No.B/Spl.Bldg/317/2012 in letter No.BC1/5189/2012 dated 7.8.2012. However, the same could not be occupied on account of pendency of applications before the authority for completion certificate. It is further contended that the second respondent / CMDA has already been granted liberty to take necessary action for removal of deviation, if any. In that view of the matter, there would not be any prejudice to the appellants / Electricity Board by granting electricity connection, which is the basic amenity, which every one is entitled to.

5 We have examined the appeal from all angles. Indisputably, the writ petitioner was granted permission for construction of stilt floor + four floors of building, as aforesaid and as such, it cannot be held that the construction is fully unauthorised without prior approval. However, if there is some deviation in the construction, the same has to be removed or rectified by the first respondent / writ petitioner, for which the second respondent CMDA is fully authorised to take all necessary steps to secure the premises as per the approved plan, as observed by the learned Single Judge. Thus, the question of completion certificate may not be relevant, at this stage. However, the same may be submitted after some time as and when it is available.

6 For the reasons mentioned herein-above, we are not inclined to interfere with the order sought to be impugned herein. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

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



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- 2 The Superintending Engineer
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- 4 The Assistant Executive Engineer (O & M)
TANGEDCO
T. Nagar, Chennai - 17
- 5 The Member Secretary,
Chennai Metropolitan Development Authority,
No.1 Gandhi Irwin Road, Egmore, Chenna-8.

+1 cc to Mr.D.S.Rajasekaran, Advocate,SR.32365

+1 cc to Mr.P.R.Dhilipkumar, Advocate,SR.32410

rv(co)
krd 7/7

Judgment in
W.A. No.33 of 2015