

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2015

CORAM:-

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.12147 of 2015

I.Ali Mohammed Yunus

... Petitioner

-Versus-

- 1.The Assistant Executive Engineer,
Tamil Nadu Electricity Board (O & M),
Mangadu Division, Se.Mi.Pa. Taluk (South)/
TNEB,
Mangadu, Chennai 600 122.
- 2.The Tamil Nadu Electricity Board,
Rep. By its Chairman,
Anna Salai,
Chennai 600 002.
- 3.The Tamil Nadu Wakf Board,
Rep. By its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the 1st respondent to grant power connection to the petitioners property at No.496 Syed Sadiq Nagar, Mangadu, Chennai – 122 without insisting for NOC by the Wakf Board.

For petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.P.Gunaraj for RR 1 and 2
Mr.V.Lakshminarayanan for R3

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner claims that he is the lawful tenant in respect of the property in No.496, Syed Sadiq Nagar, Mangadu, Chennai 600 122 which is a wakf property attached to Syed Sadiq Jumma Big Mosque and Dargah. The petitioner would further state that he approached the 1st respondent for electricity service connection with an application dated 06.06.2015 and however, the 1st respondent insisted for No Objection Certificate from the 3rd respondent – Wakf Board.

3. The grievance of the petitioner is that since he is in lawful possession of the land belonging to the Wakf Board and attached to Syed Sadiq Jumma Big Mosque, the 1st respondent should not have insisted for no objection certificate from the 3rd respondent and therefore, he has come forward with this writ petition.

4. Mr.N.A.Nissar Ahmed, the learned counsel appearing for the petitioner drawing the attention of this court to the orders dated 14.08.2012 made in W.P.Nos.9172 to 9178 of 2012, dated 17.09.2013 made in W.P.No.25310 of 2013 and dated 18.12.2014 made in W.P.Nos.17159 to 17176 of 2014 would submit that in similar facts and circumstances, this court having taken note of

Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 directed the Tamil Nadu Electricity Board to consider the applications of the petitioners therein in terms of the above said clause and pass appropriate orders and in fact, on a challenge made to one of the said orders, a Division Bench of this court has dismissed the writ appeals in W.A.Nos.2339 to 2345 of 2012 by judgement dated 19.06.2013 and hence, would pray for appropriate orders.

5. This court heard the submission of Mr.P.Gunaraj, the learned Government Advocate, who takes notice for the respondents 1 and 2, and also Mr.V.Lakshminarayanan, the learned standing counsel, who takes notice for the 3rd respondent.

6. The learned counsel appearing for the 3rd respondent would stoutly oppose the writ petition. According to him, the petitioner is not a tenant directly under the Wakf Board and he is only a sub tenant and if any positive order is passed by this court, taking advantage of the same, the petitioner may claim further right and therefore, the interests of the 3rd respondent may be protected and a liberty may be given to him to initiate appropriate action against the petitioner according to law.

7. This court has considered the rival submissions and also perused the records carefully.

8. It is relevant to extract clause 27 (4) of the Tamil Nadu Electricity Distribution Code, 2004 which reads thus:-

"An intending consumer who is not the owner of the premises he occupies shall produce a consent letter in Form 5 of Annexure III to this Code from the owner of the premises for availing the supply. If the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this Code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

9. As rightly pointed out by the learned counsel for the petitioner, this court had on earlier occasions passed orders in the writ petitions referred to above directing the electricity authorities to take note of the above said clause and pass appropriate orders on the applications submitted by the petitioners therein and since

the petitioner is also similarly placed, there may not be any impediment to direct the respondents 1 and 2 to take into consideration the above said provision and pass appropriate orders on the application of the petitioner for electricity service connection.

10. In the result, the writ petition is disposed of and the respondents 1 and 2 are directed to take into consideration the clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 and deal with the application of the petitioner dated 06.06.2015 in accordance with law and pass orders within a period of two weeks from the date of receipt of a copy of this order. It is made clear that it is always open to the 3rd respondent to initiate appropriate action against the petitioner, if so advised, and if it is permissible under law as according to them the petitioner is only a sub tenant. No costs.

29.06.2015

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To

- 1.The Assistant Executive Engineer, Tamil Nadu Electricity Board (O & M), Mangadu Division, Se.Mi.Pa. Taluk (South)/TNEB, Mangadu, Chennai 600 122.
- 2.The Chairman, TNEB, Anna Salai, Chennai 600 002.
- 3.The Chief Executive Officer, Tamil Nadu Wakf Board, No.1, Jaffer Syrang Street, Vallal Seethakathi Nagar, Chennai 600 001.

M.SATHYANARAYANAN.J.,
kmk

W.P.No.17147 of 2015

24.06.2015