

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:18.09.2015

DATED:12.12.2014

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.22003 of 2014

and

M.P.No.1 of 2014

P.Sridevi

...

Petitioner

Vs.

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

2.The Executive Engineer,
Corporation of Chennai,
Zone - XI,
Chennai - 600 030.

3.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai.

4.The Assistant Engineer,
O & M Nerkundram,
TANGEDCO/CEDC/NORTH,
Chennai.

सत्यमेव जयते

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to direct the 3rd and 4th respondents to permit the petitioner to apply for electricity service connection in respect of the residential portions and common areas constructed by the petitioner and thereby provide electricity connection to the petition premises in the 1st floor and the 2nd floor residential portions and common areas situate at Plot Nos.210 and 211, Sri Krishna Nagar, 10th street, Nerkundram, Chennai -600 107, comprised in Survey No,248/12B2 admeasuring a total extent of 3000

Sq.ft., without insisting for no objection certificate and completion certificate from the 1st and 2nd respondents.

For Petitioner : Mr.R.Abdul Mubeen

For Respondents : Mr.K.Soundararajan for R1 and R2
Mr.P.R.Dhilip Kumar for R3 and R4
(EB Standing counsel)

O R D E R

The petitioner further submits that she is the absolute owner of the property situated at Plot No.210 and 211, Sri Krishna Nagar, 10th Street, Nerkundram, Chennai-107, comprised in Survey No.248/12B2, admeasuring a total extent of 3000 sq.ft having purchased the same in and by a Sale Deed dated 03.04.2009 registered as Document No.1309 of 2009 before the Joint Sub Registrar, Virugambakkam. She submits that she purchased the vacant land and after obtaining plan approval from the Commissioner, Panchayat Union, Villivakkam, Ambattur, Chennai. On 22.06.2011 vide planning permit No.C92122, she commenced construction of residential portion consisting of nine portions to enable her to augment the income by letting out the said portions on monthly rents and thereby pay the housing loan obtained towards constructions from the Repco Home Finance Ltd. She submits that in pursuance to the same and according to the approved plan she commenced constructions and during the construction work the Panchayat Union was converted as Corporation and thereby it came under the jurisdiction with the 1st respondent. She further submits that she completed the constructions in a phased manner and thereby the 4th respondent gave electricity connection upon her application to the residential units consisting of the three portions in the ground floor and subsequently and she completed construction in the 1st and 2nd floor as per the sanctioned plan.

2. The petitioner further submits that after completion of the 1st and 2nd floors, she again requested the 4th respondent to issue an application form for electricity connection in respect of six portions in the 1st floor and the 2nd floor and also a separate electricity connection in respect of the common amenities in the petition mentioned property. She submit that it is pertinent to note that all the residential units are assessed to property taxes by the 1st respondent.

3. The petitioner further submits that the 4th respondent refused to issue the application form and further called upon her to submit no objection certificate from the 1st respondent. She submits

that she approached the 1st and 2nd respondents and personally met them and requested for issuance of no objection certificate in respect of the petition mentioned property. She further submits that the 2nd respondent categorically refused to issue no objection certificate in respect of the petition mentioned property for the only reason that the plan was sanctioned by the earlier authority i.e., Commissioner Panchayat Union Villivakkam at Ambattur, Chennai. She further submits that it is the bounden duty of the 3rd and 4th respondents to provide electricity service connection to her property forming part of essential amenity which she is entitled to and moreover her property is assessed to the property tax in respect of all the portions by the 1st respondent. She further submits that the respondents have failed to discharge their respective statutory duties for the reasons best known to them and are only insisting on no objection certificate and completion certificate from the 1st and 2nd respondents and it is therefore clear from the above said facts that except the same, the 3rd and 4th respondents are not inclined to provide electricity service connection to the petition mentioned property.

4. The 1st respondent has filed a counter statement which are as follows:

"The 1st respondent further submits that the above writ petition filed by the petitioner to issue a writ of mandamus to direct the 3rd and 4th respondents to permit the petitioner to apply for electricity service connection in respect of the residential portions and common areas constructed by the petitioner and thereby provide electricity connection to the petitioner's premises in the 1st floor and 2nd floor residential portions and common area constructed by the petitioner and thereby provide electricity connection to the petitioner's premises in the 1st floor and the 2nd floor residential portions and common areas situate at Plot No.210 and 211, Sri Krishna Nagar, 10th Street, Nerkundram, Chennai - 107, comprised in survey No.248/12B2 admeasuring a total extent of 3000 Sq.ft. Without insisting for no objection certificate and completion certificate from the 1st and 2nd respondents. He submits that the petitioner stated that she had obtained sanctioned plan vide PPA.No.C9-2122 from Villivakkam Panchayat Union on 22.06.2011 for stilt floor + 2 floors. The suit property is located at Krishna Nagar in S.No.248 part of Nerkundram Village on which the petitioner's stilt floor + 2 floors has obtained approved plan for stilt + 2 floors. It is submitted before this Court that the existing Act or Rule does not have any provision for Corporation of Chennai to issue No Objection Certificate for getting electricity connection for the residential building. He submits that there is no provision in the Chennai

City Municipal Corporation Act or Rules for the issuance of No Objection Certificate by the Corporation of Chennai for getting electricity connection for the type of building constructed by the petitioner."

5. The 4th respondent has filed a counter which are as follows: The 4th respondent submits that they are not concerned with the dispute between the petitioner and 1st and 2nd respondents. The respondent further submits that the petitioner approached the fourth respondent for giving electricity service connection and the site was inspected by him at the time of inspection the petitioner had constructed only ground floor in three portions for residential purpose and the Board already given three service connection to the petitioner for the above said premises. He further submits that the petitioner subsequently constructed in 1st and 2nd floor (three portions in each floor). He further submits that on 03.12.2012 the Chief Engineer/Commercial issued circular to classify the special building. Further on inspection it was found that the plan permission approval for ordinary building i.e., ground floor only at Stilt (part) +first+second (part) floors by the Ambattur Municipality. He further submits that as per the above said circular the building comes under Special Building Category. Hence, the Completion Certificate from the competent authority is insisted, if the petitioner is ready to submit the Completion Certificate the Board is ready to give the service as per the board rules. He further submits that the Secretary C.M.D.A is the necessary party, hence the petitioner is liable to implead the C.M.D.A as party respondent in the above in the short ground the above writ petition is liable to be dismissed in limine.

6. The learned counsel Mr.R.Abdul Mubeen, appearing for the petitioner submits that the petitioner has purchased the subject matter of the property under a registered sale deed as vacant land on 03.04.2009. Subsequently, she had obtained an approval plan from the Commissioner, Panchayat Union, Villivakkam, dated 22.06.2011. After obtaining the plan the building has been constructed. Thereafter, the building comes under the jurisdiction of the 1st respondent. The highly competent counsel submits that the petitioner has constructed 1st and 2nd floor as per the sanctioned plan and she requested both respondents to issue an application form for electricity connection in respect of six portions in the 1st and 2nd floor and also a separate electricity connection in respect of the common amenities in the petitioner mentioned property. All the construction portions have been assessed to property taxes by the 1st respondent. The 4th respondent directed the petitioner to issue no objection certificate, the same was refused by the 2nd respondent, since the plan was sanctioned by the Commissioner, Villivakkam Panchayat. The

1st and 2nd respondents have collected property tax and it is their bound and duty to issue the no objection certificate but they have refused the same. Hence, the learned counsel requests this Court to issue directions to the 3rd and 4th respondents to provide electricity service connections to the 1st and 2nd floors.

7. The highly competent counsel Mr.P.Soundararajan, appearing for the 1st and 2nd respondents submits that the petitioner had obtained sanction plan from the Villivakkam Panchayat Union on 22.06.2011 for stilt floor+2 floors. Further, the existing Act or Rule does not have any provision for the Corporation of Chennai to issue a No Objection Certificate for getting electricity connection for the tyre of building constructed by the petitioner.

8. The learned counsel Mr.P.R.Dilipkumar appearing for the 3rd and 4th respondents have inspected the petitioners property and he found that three portions were constructed in the ground floor the residential purpose and three service connections had been provided, thereafter, the petitioner had constructed six portions in the 1st and 2nd floor. Further, the said building comes under the special building category therefore, no objection certificate is absolutely necessary for providing electricity connection. Further the CMDA are necessary parties in the instant case. Hence, the learned counsel entreats the Court to dismiss the above writ petition.

9. Considering the facts and circumstances of the case and arguments advanced by the learned counsel on all sides and on perusing the typed set of papers, this Court directs the 2nd respondent herein to inspect the constructed building of the petitioner along with the sanction plan which had been sanctioned by the Ambattur Municipality and decide the issue whether the constructed building comes under the special building or ordinary building category and decide the petitioner's requirement of electricity connection within four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar(CSII)

dt:30/9/2015

WEB COPY

True Copy

Sub-Assistant Registrar

To

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Park Town,
Chennai - 600 003.

2.The Executive Engineer,
Corporation of Chennai,
Zone - XI,
Chennai - 600 030.

3.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai.

4.The Assistant Engineer,
O & M Nerkundram,
TANGEDCO/CEDC/NORTH,
Chennai.

+1 cc to Mr.Abdul Mubeen Advocate sr.50855

+1 cc to Mr.Dilip Kumar Advocate sr.51009

W.P.No.22003 of 2014
and
M.P.No.1 of 2014

aa5/10/2015

सत्यमेव जयते

WEB COPY