

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 03/12/2014

DATED: 31/07/2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.23265 of 2014

S.Meenamalini ... Petitioner

Vs.

1. The Executive Engineer,
(Operation & Maintenance),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Ambattur, Chennai - 600 056.
2. The Assistant Electrical Engineer,
(Operation and Maintenance),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Mel Ayanampakkam, Chennai - 600 095.
3. The Executive Officer,
Arulmigu Karivaradharaja Perumal
Thirukoil Vellalar Street,
Ayanampakkam, Chennai - 600 095. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a Writ of Mandamus to direct the second respondent to provide Electricity Service Connection to the petitioner's premises viz., house, ground and premises bearing Door No.415/1, Etteeswaran Koil Street, Mel Ayanampakkam, Chennai - 600 095, within a time fixed by this Court.

For Petitioner : Mr.K.Premkumar

For Respondents : Mr.P.R.Dilipkumar
(Electricity Board) for R1 and R2

Mr.S.Kandasamy,
Special Government Pleader for R3

O R D E R

The petitioner submits that she constructed a small house said to belong to the Varadharaja Perumal Temple, which is administered by the third respondent herein and however, she is paying the land rent to the third respondent. The petitioner further submits that she has been paying the House Tax, Water Tax to the Thiruverkadu Municipality. She further submits that she has been issued with Ration Card, Voter's Identity Card etc., by the authorities concerned for her above residence except the Electricity Service connection. She further submits that her family members are living without the electricity connection for the past one decade and being put to irreparable loss, mental agony, hardship and inconvenience. The petitioner further submits that she and several other residents of the same area have represented and requested the respondents 1 and 2 to provide electricity service connection, but they failed to consider and hence, she and 18 others jointly filed a writ petition in W.P.No.22486 of 2013 before this Court and this Court dismissed the said writ petition on 26.09.2013 with the following observation:-

"The writ petition is dismissed. It is made clear that the disposal of the writ petition would not foreclose the rights of the petitioners to submit necessary applications in the prescribed format to respondents 1 to 3 and if applications are made, the respondents shall act in accordance with the statutory provisions and the Distribution Code. No costs. Consequently, the connected miscellaneous petition is closed."

2. The petitioner further submits that she submitted an individual application for electricity connection in Form 1 along with Form 6 executed in a duly stamped paper, with the second respondent herein, since the third respondent refused to give consent. She submits that she paid the charges also on 10.12.2013 with the second respondent and the second respondent issued a receipt there for and agreed to provide the Electricity connection to her residence shortly. But, till date the respondents 1 and 2 did not provide the electricity service connection to her house for the reasons best known to them and no orders passed on her application till date and when visited in person, the second respondent refused to give proper reply. The petitioner further submits that as per Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code 2004, if a person is in lawful occupation of the premises, it is open to the Electricity Board to give separate Electricity Service Connection, on executing an Indemnity Bond in Form-6 of the Annexure III to this code. The said clause is as follows:-

"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."

Therefore, the petitioner is entitled to get Electricity Service Connection, subject to fulfillment of the above conditions. In fact, she submitted the applications in the prescribed format, but the respondents 1 and 2 failed to consider the same.

3. The petitioner further submits that she is in lawful possession of the subject property and the third respondent is collecting the land rent from her and hence, the respondents herein may be directed to provide electricity service connection to her house, otherwise, she will be put to irreparable loss, hardship and inconvenience. She further submits that due to non-availability of electricity service connection, the entire day-to-day affairs are very much affected and no prejudice would be caused to the respondents herein in granting such relief, because admittedly, she is in lawful possession of the property in question.

4. The highly competent counsel Mr.K.Premkumar appearing for the petitioner submits that the petitioner had constructed a small house on the land bearing door No.415/1, Etteeswaran Koil Street, Mel Ayanampakkam, Chennai - 600 095. The said property belongs to Varadharaja Perumal Temple, which is administered by the third respondent herein. The petitioner is the tenant under the third respondent. The petitioner also had remitted house tax, water tax to the Thiruverkadu Municipality. She had been issued ration card and voter identity card. The petitioner and several other residents at the same area have made representation to the first and second respondents to provide electricity service connection, but the same was not considered. Hence, the petitioner and 18 others have jointly filed a writ petition in W.P.No.22486 of 2013. This Court dismissed the said writ petition. Thereafter, the petitioner has submitted an individual application to the second respondent, after paying necessary charges, but the respondents 1 and 2 had not given electricity service connection.

5. The highly competent counsel appearing for the petitioner further submits that if any person is in lawful occupation of the premises, she is entitled to receive separate electricity service connection on executing an indemnity bond in Form No.6. Hence, the highly competent counsel entreats this Court to give direction to the respondents 1 and 2 to provide electricity service connection.

6. The highly competent counsel Mr.P.R.Dilipkumar appearing for the first and second respondents submits that the petitioner's occupation is not a lawful one. Further, property belongs to the third respondent herein. As such, the respondents had directed the petitioner to obtain no objection certificate from the third respondent herein and the same was refused by the third respondent. The petitioner and 18 others have sought similar remedy before this Court by way of writ proceedings, but the same was rejected. Now, on the same set of facts, the above writ petition has been filed. Hence, the highly competent counsel entreats the Court to dismiss the above writ petition since the petitioner is an encroacher.

7. The highly competent Special Government Pleader Mr.S.Kandasamy appearing for the third respondent submits that the petitioner had encroached the third respondent's property, which has been maintained by the Hindu Religious and Charitable Endowments Board. The petitioner had encroached a part of the land comprised in Survey No.415, situated at Ayanambakkam Village. Further, the contention raised by the petitioner that she is a tenant under the third respondent herein is not correct. Further, in order to prove the tenancy ship, the petitioner had not produced any tenancy agreement to prove that she is a lawful tenant.

8. On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on either side and on perusing the typed-set of papers and on a perusal of letter dated 11.11.2014 submitted by highly competent Special Government Pleader Mr.S.Kandasamy, it is seen that the petitioner had unauthorizedly occupied the temple property, which belongs to Hindu Religious and Charitable Endowments Board and which is directly controlled and maintained by the third respondent herein. Further, the petitioner has failed to establish that she is a lawful tenant under the third respondent. Hence, the above writ petition is dismissed. There is no order as to costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Executive Engineer,
(Operation & Maintenance),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Ambattur, Chennai - 600 056.

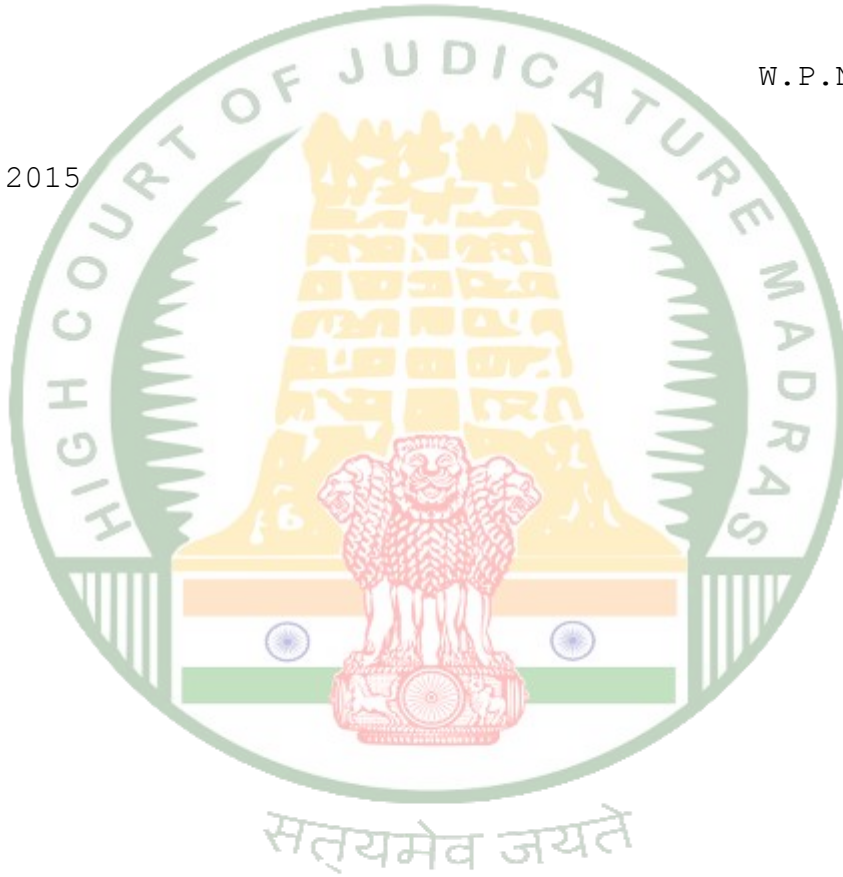
2. The Assistant Electrical Engineer,
(Operation and Maintenance),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Mel Ayanampakkam, Chennai - 600 095.

3. The Executive Officer,
Arulmigu Karivaradharaja Perumal
Thirukoil Vellalar Street,
Ayanampakkam, Chennai - 600 095.

+1cc to M/s.K.Premkumar, Advocate sr.39281

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srg 21.08.2015



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