

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33910 of 2014

And

M.P.No.1 of 2014

Mr.Palanisamy

... Petitioner

Vs.

1.The Chief Engineer,
TANGEDCO,
Tatabad,
Coimbatore - 641012.

2.The Superintending Engineer,
TANGEDCO,
Tatabad,
Coimbatore - 641012.

3.The Executive Engineer,
Vadamadurai,
Thudiyalur,
Coimbatore - 6410.

4.The Tahsildhar,
Annur Taluk,
Coimbatore - 6410.

5.S.Rajeshwari Shivakumar

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus restraining the 3rd respondent from erection of electricity pole in the petitioner's property situated in Survey Nos.357/2A, 357/2B, 357/2C, 357/2D, 358/2, Masagounderchettypalayam, Annur Taluk, Coimbatore district.

For Petitioner : Mr.A.Edwin Prabakar
For Respondents : Mr.S.K.Rameshuwar for R1 to R3
Mr.V.Subbiah for R4
Special Government Pleader
Mr.R.Nandakumar for R5

O R D E R

The petitioner claims that he and his brother are the absolute owner of the property situated in Survey Nos.357/2A, 357/2B, 357/2C, 357/2D, 358/2 in patta nos.2708, 848, 2866, Masagounderchettypalayam, Annur Taluk, Coimbatore District admeasuring to an extent of 4 acres. The petitioner would further state that the fifth respondent has put up a factory in the name and style of S.K.S.Casting and running the same. She has applied for new electricity service connection and the respondents 1 to 3 without properly obtaining the factual particulars, has granted permission to erect poles on the land owned by the petitioner and also erected poles. The petitioner in this regard, has submitted a representation dated 05.12.2014 to the respondents and since no response is forthcoming, has come forward to file this writ petition.

2.The third respondent has filed counter affidavit stating among other things that the extension lines were proposed in the cart track which is passing through S.F.No.360 and on the Western border of S.F.No.357/2F and 357/2D and the Eastern border of S.F.No.357/2C to reach her property at S.F.No.357/2D and 357/2E of the said village and work order was given on 27.10.2014 and Distribution Transformer Structure was erected on the public road and four numbers Electric poles were erected in the 30 feet North-South cart track and after erection of the poles only, the petitioner together with the other objectors has given their objections and both parties were summoned for enquiry and the fifth respondent also produced ownership certificate dated 02.12.2014 along with the legal opinion of the Government Pleader and as per the certificate issued by the Thasildar, Annur, the right of the fifth respondent over the 30 feet North-South cart track has been established. It is further stated that to solve the problem, the fifth respondent was also called upon to show alternate way to lay the lines to effect the additional load as per clause 27(6) of the Tamil Nadu Electricity Distribution Code 2004 and the fifth respondent has also issued legal notice for provision of electricity service connection.

3.The fifth respondent has filed counter affidavit stating among other things that she has purchased the properties comprised in S.F.No.357/2D part and S.F.No.357/2E along with right to use the cart track by means of registered Sale Deed dated 07.04.2005 and since some mistakes have crept in in the registered Sale Deed, a rectification deed dated 19.07.2009 was also executed and would further claim that she is having the usage and enjoyment of North-South cart track to reach the East-West Main Road and recital in the parent document would also disclose the existence of the said cart track. Therefore, the petitioner is not having any right over the said property and consequently, he cannot raise any objection for erection of the electricity poles and provision of electricity supply to her site.

4.In response, the learned counsel appearing for the petitioner would submit that the petitioner along with two others had also filed O.S.No.1022 of 2015 on the file of the Court of I Additional District Munsiff, Coimbatore against the fifth respondent and nine others which include the respondents 1 to 3 praying for declaration that the rectification deed dated 19.07.2009 is null and void and also the ownership certificate given by the Tahsildar, Annur in her favour and for permanent injunction restraining the respondents 8 to 10 from

giving the electricity supply to the fifth respondent and would further add that the jurisdiction Revenue Divisional Officer is also conducting enquiry as to the cart track in Roc.No.10063 of 2014 and prays for appropriate orders.

5.This Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the fourth respondent also.

6.Admittedly, a suit in O.S.No.1022 of 2015 is pending on the file of the Court of I Additional District Munsiff, Coimbatore and therefore, this Court refrains from giving any finding as to the alleged ownership of the cart track or its usage.

7.It is the submission of the learned counsel appearing for the petitioner that the Revenue Divisional Officer, Coimbatore is also conducting enquiry with regard to the above said cart track vide proceedings in Roc.No.10063 of 2014 and it would be suffice to direct the early disposal of the said proceedings.

8.This Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner as well as by the fifth respondent directs the Revenue Divisional Officer, Coimbatore to conclude the proceedings in

Roc.No.10063 of 2014 as expeditiously as possible after affording opportunity to the petitioner as well as to the fifth respondent and pass orders in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the fifth respondent.

9.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1.The Revenue Divisional Officer,
Coimbatore.

2.The Chief Engineer,
TANGEDCO,
Tatabad,
Coimbatore - 641012.

3.The Superintending Engineer,
TANGEDCO,
Tatabad,
Coimbatore - 641012.

4.The Executive Engineer,
Vadamadurai,
Thudiyalur,
Coimbatore.

5.The Tahsildhar,
Annur Taluk,
Coimbatore.

+ 1 cc to Mr. S.K. Raameshuwar (SR 37261)
+ 1 cc to Government Pleader (SR 37048)
+ 1 cc to Mr. R. Nandhakumar (SR 36698)



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W.P.No.33910 of 2014
And
M.P.No.1 of 2014

RV (CO)
YJ 24.07.15



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