

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:7-10-2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.23758 of 2015

M.Raman

...Petitioner

Vs.

1. The Secretary to the Government,
Government of Tamilnadu,
Department of Electricity,
St.George Fort, Chennai-600 009.
2. The Executive Engineer,
Tamilnadu Generation and Distribution
Corporation, Ambathoor, Chennai.
3. The Assistant Engineer,
Tamilnadu Generation and
Distribution Corporation,
Ambathoor Estate/Mangalpuram,
Ambathoor, Chennai-98.
4. The Bench Manager,
SIDCO,
Ambathoor Estate,
Ambathoor, Chennai.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings in க.எண்.உ.மின்.பொறியாளர்-மங்களபுரம்-கோப்ப, நுகர்வோர் 1771/2014 க.எண்.108/2014 நாள் 18.12.2014 and quash the same as illegal and arbitrary, subsequently directing the respondents Nos.1 to 3 to restore the electricity connection of the petitioner.

For Petitioner : Mr.R.Sevugaraja
For Respondents : Mr.P.R.Dilipkumar for RR 2 & 3
Mr.V.Jayaprakashnarayanan
Spl.Govt.Pleader for R1
Mr.Abdul Saleem for R4

ORDER

The the petitioner is stated to be a person who is in possession of the land belonging to the 4th respondent and constructed a house at No.1/6, Dr.Ambedkar Street, Thanthai Periyar Nagar, Korattur, Cennai- 600 080. The petitioner got electricity service connection, bearing No.037-002-1771 to his residential house in the year 2014 by executing appropriate indemnity bond.

2. Notice was given to the petitioner calling upon him to produce no objection certificate from the 4th respondent and thereafter the petitioner electricity service connection was dis-connected on 12.12.2014. Only after dis-connecting the service connection, the impugned order has been passed on 18.12.2014. The said order is being challenged before this Court.

3. Heard the learned counsel appearing for the petitioner and Mr.P.R.Dilipkumar, learned counsel appearing for the 2nd and 3rd respondents. Mr.V.Jayaprakashnarayanan, learned Special Government Pleader appearing for the first respondent.

4. Mr.P.R.Dilipkumar, the learned counsel appearing for the petitioner would submit that as per the order passed in W.P.No.32889 of 2014 filed by Nethaji Subash Chandra Bose against the SIXCO, Electricity Board and the petitioner herein, the electricity connection was disconnected.

5. Mr.Abdul Saleem, learned counsel appearing for the 4th respondent would submit that the petitioner is a recent encroacher and he is not entitled to as per G.O.Ms.No.206, Revenue dated 04.04.2008 and therefore, he may not be granted electricity connection.

6. Heard the parties and perused the records.

7. The petitioner was given electricity connection in June 2014. When the electricity connection was given, it has got to be understood that the Electricity Board was satisfied with the documents produced by the petitioner and thereafter only the electricity service connection was given. When such is the position, based on the third party's complaint, the respondent Electricity Board has disconnected the Electricity service connection, as the petitioner failed to produce the require documents. Having satisfied with the documents produced by the petitioner and on execution of appropriate indemnity bond, the electricity service connection should have been given and therefore, after giving electricity connection, the respondent should not have acted upon based on the third party's complaint on immediate reaction.

8. Admittedly, even according to the respondents, the petitioner is in possession of the property and he has constructed a house. He has got electricity service connection and subsequently it was disconnected. It is well settled law that even a trespasser cannot be dispossessed without due process of law. When admittedly the petitioner is in possession he is entitled to enjoy the property along with the basic amenities, such as water, drainage facilities, electricity connection etc. Even nobody can imagine that he may be living without electricity connection. Therefore, the respondent-Electricity Board, should not have disconnected the electricity connection to the petitioner.

9. Therefore, the impugned order passed by the third respondent is quashed and the third respondent is directed to restore the electricity connection to S.C.No.037-002-1771.

10. Even though, the learned counsel appearing for the respondents would submit that based on the order passed by this court in W.P.No.32889 of 2014 dated 12.11.2015, only the disconnection was made, the order would reveal that petitioner was not served with the notice in the said writ petition. Therefore, even if the order has been passed, it will not be binding upon the petitioner as he has not been served. Moreover, the order seems to have been passed at the time of admission itself.

11. In view of that, the respondent is directed to restore the electricity connection within 48 hours from today i.e. on 7.10.2015. Call the matter on 9.10.2015 and post the matter

immediately after the motion cases. It is made clear that this order is passed only with regard to the restoration of electricity connection which was disconnected already.

12. With the above, the writ petition is disposed of. No costs. Consequently the connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
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2. The Executive Engineer,
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Corporation, Ambathoor, Chennai.
3. The Assistant Engineer,
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Distribution Corporation,
Ambathoor Estate/Mangalpuram,
Ambathoor, Chennai-98.
4. The Bench Manager, SIDCO,
Ambathoor Estate,
Ambathoor, Chennai.

1 CC to Mr.Abdul Saleem, Advocate SR.No. 55054

1 CC to Mr.P.R.Dilipkumar, Advocate SR.No. 55429

1 CC to the Government Pleader, SR.No. 54704

W.P.No.23758 of 2015

JSV (CO)

PSI (20.10.2015)