

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN, J

Writ Petition No.27393 of 2015 and
M.P.No.1 of 2015

Mr.C.Thiyagarajan

.. Petitioner

vs.

1.The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Usman Road, T.Nagar,
Chennai - 600 017.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Usman Road, T.Nagar,
Chennai - 600 017.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to attend the cable fault and to restore the electricity supply to the petitioner's Electricity Connection Consumer Nos.181:034:747; 181:034:742 and 181:034:746 in the premises bearing Old Door No.21/1 New No.68, Rameswaram Road, T.Nagar, Chennai - 600 017.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.P.R.Dhilip Kumar

ORDER

The petitioner is the owner of the property to an extent of 950 sq.ft together with a building comprised in T.S.No.7761, Block No.126 bearing Old Door No.21/1 New No.68, Rameswaram Road, T.Nagar, Chennai - 600 017. At the Western side of the petitioner's property, there is a common passage, which is the only access for the ingress and egress to the petitioner's property. The said common passage is also shown in the sale deed dated 24.03.2003. Electrical cable from the pillar is passing through the common passage underneath. The petitioner got electricity connection through the said electricity

cable to the petitioner's property vide consumer connection Nos.181:034:747; 181:034:742 and 181:034:746. Since the neighbours, namely, Kamakodi Flat Owners Association objected for digging of the common passage, for the purpose of rectifying cable fault, the petitioner was constrained to file O.S.No.4232 of 2013 on the file of the learned VI Assistant City Civil Judge, Chennai and obtained an order of interim injunction in I.A.No.1126 of 2013 in O.S.No.4232 of 2013 on 07.08.2013. The said order is still in force.

2. When things stand so, there was a cable fault through which, the petitioner is getting power supply and therefore, the petitioner made a request to the respondents to rectify the fault. When the respondents attempted to dig the common passage to rectify the cable fault, Kamakodi Flat Owners Association objected it and therefore, the same could not be carried out. Hence, the petitioner has come before this Court seeking a direction to the respondents to attend the cable fault and to restore the electricity supply to the petitioner's electricity consumer connection Nos.181:034:747; 181:034:742 and 181:034:746 in the premises bearing Old Door No.21/1 New No.68, Rameswaram Road, T.Nagar, Chennai - 600 017.

3. Heard Mr.S.Vijayakumar, learned counsel for the petitioner and Mr.P.R.Dhilip Kumar, learned counsel for the respondents.

4. A perusal of the records would show that the petitioner is the owner of the property and right of using the common passage is also conveyed to the petitioner by his vendor, by virtue of the sale deed dated 24.03.2003 and the said common passage is also shown in the sketch annexed to the said sale deed executed by the petitioner's vendor.

5. Moreover, the petitioner already obtained an order of interim injunction restraining Kamakodi Flats Association and Kamakodi Flat Owners Welfare Association from interfering with the petitioner's peaceful possession and enjoyment of the property together with the only access through the common passage situated at the Western side of the suit property.

6. Now, the cable goes underneath to the said common passage and it requires to be attended by the respondents as there is a fault. When an order of injunction is acting against the said Flat Owners Association, the said persons cannot interfere with the petitioner's right. Moreover, neither the petitioner nor the respondents going to lay any new cable underneath to the common passage and the respondents are only going to attend the cable fault, which had already been laid.

7. Since, no prejudice would be caused to the said owners Association, there is no hesitation for this Court to direct the respondents to attend the cable fault, which is running underneath to the common passage and restore the electricity connection to the

petitioner, within a period of three days from the date of receipt of a copy of this order.

8.Mr.P.R.Dhilip Kumar, learned counsel for the respondents would submit that when the respondents are attempted to rectify the cable fault, the neighbouring flat owners are creating law and order problem and hence, police protection may be provided to the respondents.

9.Taking into consideration of the said submission of the learned counsel for the respondents, the Jurisdictional Police is directed to give appropriate police protection to the respondents at the time of carrying out the cable fault.

10.With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Call the matter on 07.09.2015.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jbm

To

1.The Chairman,
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Chennai - 600 002.

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+2 ccs to Mr.V.B.Thirupathikumar Advocate sr.6800
+1 cc to Mr.P.R.Dhilipkumar Advocate sr.46781

W.P.No.27393 of 2015

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