

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29-10-2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.2754 of 2015

V.M.Ramasamy

... Petitioner

Vs.

1.The Assistant Executive Engineer/East  
(Operation and Maintenance)  
TANGEDCO, (TNEB)  
948,E.V.N.Road,  
Erode-638 009.

2.The Assistant Engineer  
(Operation and Maintenance)  
TANGEDCO, (TNEB)  
948, E.V.N.Road,  
Erode-638 009.

3.S.Syed Riyaz

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider the petitioner's representation dated 09.09.2014 and in consequently replace the electricity supply line with new wires for the petitioner house in respect of the S.N.No.002/010/739 and 002-010-260 and further transfer the S.C.No.002-010/739 from the name of 3<sup>rd</sup> respondent to the petitioner name.

For Petitioner :M/s.D.Gopal and D.Raghu

For Respondents :Mr.S.K.Raameshuwar for RR 1 & 2  
Mr.A.K.Kumarasamy for R3

ORDER

The petitioner contends that as per the sale agreement dated 13.12.1984 entered into between the petitioner and Mr.Syed Hufizz, who is the father of the third respondent, the property is said to have been handed over to the petitioner on 3.2.1985 and he is in lawful possession and enjoyment of the property namely, LIG-129, Periyar Nagar, Erode District. Since certain attempts have been made to evict the petitioner from the said

premises by illegal means, the petitioner filed O.S.No.766 of 2000 on the file of the District Munsif, Erode for grant of permanent injunction and the same was granted on 26.11.2001, restraining father of the third respondent from interfering with the petitioner's peaceful possession. Subsequently, the petitioner also filed a suit for specific performance in O.S.No.374 of 2007 on the file of the 2<sup>nd</sup> Additional Sub Court, Erode and the same is pending.

2. Electricity Service connection bearing S.C.No.002-010-739 is concerned, it stood in the name of the petitioner. As far as other Electricity connection is concerned, namely S.C.No.002-010-260 stood in the name of the father of the third respondent. However, without knowledge and notice, the service connection stood in the name of the petitioner, is said to have been transferred in the name of third respondent, as his father, Syed Hafizz died.

3. The first and second respondents, without notice, transferred the service connection stood in the name of the petitioner to the name of the third respondent and therefore, the petitioner gave a representation on 9.9.2014, requesting to transfer S.C.No.002-010-739 from the name of the third respondent to the name of the petitioner and the same has not been considered. Hence, the petitioner has approached this Court by filing this writ petition.

4. When the matter is called today, after hearing the parties, this Court finds that service connection No.002-010-783 was standing in the name of the petitioner and the same is also admitted by Mr.A.K.Kumarasamy, the learned counsel appearing for the third respondent.

5. This Court put a query to Mr.Raameshuwar, the learned Standing counsel for TNEB, appearing for the respondents 1 and 2, as to how, without notice, service connection stands in the name of the petitioner was transferred, the learned counsel appearing for the respondents 1 and 2, after getting instructions from the 2<sup>nd</sup> respondent would submit that based on the sale deed produced by the third respondent, the name change was effected. Further this Court raised a query, as to whether it is possible to transfer the service connection without notice to the petitioner, in whose name the electricity connection stood, it is contended by the respondents 1 and 2 that as per Rule 7 of the Tamil Nadu Electricity Supply Code, namely ( Name Transfer charge-I), the name has been changed. For the sake of clarity, Rule-7 of the Tamil Nadu Electricity Supply Code is usefully extracted as follows:

"(7) Name Transfer charge

Every application for transfer of name consequent to the death of the consumer shall be in Form (1) accompanied by : (a) Legal heirship certificate from the Tahsildar concerned or proof of ownership such as local body tax receipts ( latest) (b) No objection certificate from other legal heirs, if any, (or) an indemnity bond in Form (3) in Appendix to this Code on non-judicial stamp paper for a value of Rs.80/- and a sworn-in affidavit and authenticated by a Notary Public or by a gazetted officer to show the status of other legal heirs. (c) Fresh application with fee to be specified by the Commission and agreement form. Every application for transfer of name, in other cases, shall be in Forms (1) and (2) in Appendix to this Code accompanied by- (a) The document supporting the transfer with an undertaking in Form (4) in Appendix to this Code (b) Consent letter from the consumer for the transfer of the Security Deposit. Where no such consent letter can be produced, the applicant shall pay fresh Security Deposit. (c) Fresh application with fee to be specified by the Commission and agreement form. Explanation : The name transfer is effected only for such services which are not under disconnection. "

A perusal of the said Rule would show that it is only regarding the application given pursuant to the sale deed, provided, the service connection stands in the name of the vendor. In this case, the vendor is Housing Board and which executed a sale deed in favour of the third respondent. Hence there may not be any problem, as far as S.C.No.002-010-260 is concerned, the respondents 1 and 2 could transfer the name based on the document. Whereas, the other electricity connection in S.C.No.002-010-739 is concerned, it is only with the consent of the petitioner, in whose name the electricity service connection stood. Therefore, the said Rule is not applicable.

6. Even if it is applicable, the respondents 1 and 2 should have given notice to the petitioner before changing the name. Mr. Shanmugam, the officer of the respondents, who is said to have transferred the name, might have come acrossed many cases of transfer. Even if no Rule is prescribed for giving notice, it is a principle of natural justice, which requires, a notice to the person in whose name the electricity connection stood. Without following the due process, the petitioner's name has been changed.

7. Mr.A.K.Kumarasamy, learned Counsel appearing for the third respondent would submit that the suit for specific performance case is pending and therefore, the same has to be adjudicated before the concerned Court. As far as the title deed is concerned, as rightly contended by the learned counsel appearing for the third respondent, it has to be decided only before the Civil Court.

8. Therefore, while setting aside the name transfer effected in the name of the third respondent, a direction is given to the respondents. Till the petitioner is dispossessed as per law, the petitioner is entitled enjoy the property and therefore, the first and second respondents are directed to replace the Electric supply wire with new wire and transfer the service connection in the name of the petitioner, within one week from the date of the receipt of a copy of the order.

9. With the above direction the writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vk

To:

1.The Assistant Executive Engineer/East  
(Operation and Maintenance)  
TANGEDCO, (TNEB)  
948, E.V.N.Road,  
Erode-638 009.

2.The Assistant Engineer  
(Operation and Maintenance)  
TANGEDCO, (TNEB)  
948, E.V.N.Road,  
Erode-638 009.

+1 cc to Mr.D.Gopal, Advocate, sr.58942  
+1 cc to Mr.A.K.Kumarasamy, Advocate, sr.58844  
+1 cc to Mr.S.K.Rameshwar, Advocate, sr.58853

W.P.No.2754 of 2015

lrs co  
kra 22.12.2015