

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.28254 of 2014

&

M.P.Nos.1 & 2 of 2014

S.Mylsamy

... Petitioner

Versus

1. The Block Development Officer,
Sulthan Pettai,
Coimbatore District.
2. The Executive Engineer,
Tamilnadu Electricity Board,
Distribution Wing,
Kattampatti,
Coimbatore South.
3. The Assistant Executive Officer,
Tamilnadu Electricity Board,
Distribution Wing,
Kattampatti,
Coimbatore South.
4. The Village President,
Malaipalayam Panchayat Union,
Coimbatore District.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorified mandamus call for the records of the first respondent proceedings dated 21.08.2014 in Na.Ka.No.130/2014/A5 and quash the same and further directing the respondents 2 to 3 herein to effect electricity service connection in petitioner's land comprised in S.No.344/5A1B under the scheme of "Suyanidhi Thittam Min Inaippu" within the stipulated time.

For Petitioner : Mr.S.Sithirai Anandam

For Respondents : Mr.R.Rajeswaran,
Special Government Pleader for R1

: Mr.S.K.Rameshwar for R2, R3

: Mr.C.Prakash Kumar for R4

ORDER

Heard Mr.S.Sithirai Anandam, learned counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing on behalf of the first respondent, Mr.S.K.Rameshwar, learned counsel appearing for the respondents 2 & 3 and Mr.C.Prakash Kumar, learned counsel appearing for the fourth respondent.

2. The petitioner has filed this Writ Petition challenging the order passed by the first respondent dated 21.08.2014, in and by which, the first respondent cancelled the "No Objection Certificate" granted in favour of the petitioner for obtaining service connection in "Well", which is located in the petitioner's property. Initially, the service connection was in an existing bore well in S.No.344/5A1B, Malapalayam Village. The petitioner wanted shifting of the service connection to a well in S.No.344/5A1B. This was approved by the proceedings dated 16.07.2012 and Agricultural service connection application was released on 03.07.2013. This was granted to the petitioner, based upon the No Objection Certificate issued by the first respondent. Subsequently, it appears that there was public objection and the No Objection Certificate was cancelled, resulting in cancellation of the service connection. This order impugned in this writ petition.

3. At the time when the writ petition was entertained, an order of interim stay was granted, which is in force till date. The second respondent has filed a counter affidavit setting out the facts. From his counter, it is seen that the well for which the petitioner has now obtained service connection is within the prohibited distance from the public bore well, which requires, "No Objection Certificate" from the Competent Authority.

4. The learned counsel for the petitioner would submit that his well was in existence much prior to the establishment of the public bore well. However, in the affidavit filed in support of the writ petition, there is no specific averment. In any event, the petitioner's right cannot be foreclosed and if he has got records to show that his well was in existence much prior to the public bore well before the Competent Authority, for grant of 'No Objection Certificate', the said authority shall consider the application on merits.

5. In the light of the above, the writ petition is disposed of with liberty to the petitioner to approach Competent Authority with appropriate application supported by documents to show that his well in S.No.344/5A1B was established much prior to the public bore well and if the Competent Authority is satisfied, it may pass orders in accordance with law. The above direction shall be complied with within a period of three months from the date of receipt of a copy this order. Until then, status-quo prevailing as on date shall be maintained. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dn

To

1. The Block Development Officer,
Sulthan Pettai,
Coimbatore District.

2. The Executive Engineer,
Tamilnadu Electricity Board,
Distribution Wing,
Kattampatti,
Coimbatore South.

3. The Assistant Executive Officer,
Tamilnadu Electricity Board,
Distribution Wing,
Kattampatti,
Coimbatore South.

4. The Village President,
Malaipalayam Panchayat Union,
Coimbatore District.

+lcc to Mr.S.K.Rameshwar, Advocate, S.R.No.65165

W.P.No.28254 of 2014

VS (CO)
CA(15/12/2015)



WEB COPY