

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.2809 of 2015

and

M.P.Nos.1 and 2 of 2015

M/s.Tiruppur Khadherpet Ahela
Sunnath Jamath Masjid
and Madharasa Paribalana Sabai
rep.by its Secretary Mr.S.Majeed
No.24, N.H.S.Road
Khadherpet, Tiruppur 641 001. .. Petitioner

vs.

1.** The Tamil Nadu Electricity Board
rep.by its Chairman
having his office at NPKRR Maaligai
No.153, Anna Salai
Chennai 600 002.

2. The Assistant Executive Engineer
The Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
(TANGEDCO), Tiruppur Region
Royapuram, Tiruppur 641 001.

3. The Tamil Nadu Wakf Board
rep.by its Secretary
having his office at
No.1, Jaffar Sarang Street
Chennai 600 001.

.. Respondents

**First respondent is given up vide
court order dated 05.02.2015 by MDJ
in W.P.No.2809 of 2015.

R-3 impleaded as per order dated
23.02.2015 by MDJ in M.P.No.3/2015
in W.P.No.2809 of 2015

Writ Petition filed under Article 226 of the Constitution
of India praying for the issuance of a Writ of certiorarified
mandamus to call for the records from the second respondent
insofar as it relates to the order passed by the second
respondent in his proceeding Ka.No.Oo.Se.Po./E&
Pa/Royapuram/Ko.Thani/No.679/14-15 dated 15.09.2014; to quash the
said order and to direct the second respondent to grant single

phase Electricity Service Connection to each of the newly constructed 40 shops bearing numbers U-1 to U-12 (Basement), G-1 to G-12 (Ground Floor) and F-1 to F-16 (First Floor) and two three phase connection for the shopping complex situated in T.S.No.197 bearing Door No.23, 24/21,22, Ghouse Sahib Street, Khaderpet, Tiruppur Taluk and District pursuant to the petitioner's application dated 04.08.2014.

For Petitioner : Mr.Raja Kalifulla
Senior counsel for
Mr.J.Jayendra Krishnan

For Respondents : Mr.S.K.Rameshwar for R2
Standing Counsel for TNEB
R1- given up vide endorsement
in EB dated 05.02.2015
Mr.V.Lakshmi Narayanan for R3

ORDER

The above writ petition has been filed by Tiruppur Khadherpet Ahela Sunnath Jamath Masjid and Madharasa Paribalana Sabai seeking for the issuance of a writ of certiorarified mandamus to call for the records relating to the order passed by the second respondent dated 15.09.2014; to quash the same and thereby direct the second respondent to grant single phase Electricity Service Connection to each of the newly constructed 40 shops and two three phase connection for the shopping complex situated in T.S.No.197 bearing Door No.23, 24/21,22, Ghouse Sahib Street, Khaderpet, Tiruppur Taluk and District pursuant to the petitioner's application dated 04.08.2014.

2. It is the case of the petitioner that after completion of the construction in the property in T.S.No.197, the petitioner had applied for 40 single phase service connection for each of the newly constructed shops and two, three phase connection for the shopping complex in the requisite forms by paying the applicable charges. The second respondent after inspecting the site, passed an order dated 15.09.2014 rejecting the application submitted by the petitioner stating that one Mohammed Rafi had sent a letter dated 02.09.2014 objecting to the grant of electricity service connection on the ground that the Tamil Nadu Wakf Board has granted approval to the present Committee only till 11.07.2013. Further it is stated that action will be taken within a week, according to the rules, if a copy of the order issued by the Tamil Nadu Wakf Board approving the Committee's request is produced. According to the petitioner, the Tamil Nadu Wakf Board, who were impleaded as the third respondent in this writ petition, vide its proceeding dated 15.07.2014 has passed an order stating that the newly constructed shops should not be leased out in view of the amendment to Section 56 of the Act as per Amendment Act 27 of 2013 and till the enquiry relating to the administration of the mosque is completed. According to the petitioner, the order passed by the

third respondent is without any reference to the approval granted by the first respondent vide its proceeding dated 26.02.2013 and without considering the fact that the amendment to Section 56 is only prospective and the same will not affect the lease already granted. Now, challenging the impugned order passed by the second respondent dated 15.09.2014, refusing to grant service connection to the building in question, the petitioner has filed the above writ petition.

3. Learned Senior counsel appearing for the petitioner brought to the notice of this Court, the order dated 06.01.2015 passed by this Court in W.P.No.22 of 2015, wherein it is held as follows:

"3.The dispute involved in this Writ Petition appears to have had a chequered history. The petitioner was issued a show cause notice dated 05.09.2014 calling upon the petitioner to submit an explanation for taking action under Sections 46,50,64 and 72 of the Wakf Act, 1995. The petitioner submitted their explanation dated 11.09.2014 and notice was issued for an enquiry to be held on 26.11.2014. The petitioner approached the Tamilnadu Wakf Tribunal at Chennai and sought for an Interim Injunction restraining the Wakf Board from passing any order under Section 65 of the Wakf Act. The Tribunal has granted Interim Injunction on 28.11.2014 and the said order is still in force. In the meantime, alleging that the Management of the Tamil Nadu Wakf Board was being interfered contrary to the Interim Injunction granted by the Tribunal, notice of contempt was issued and thereafter contempt petition was filed before the Wakf Tribunal, Chennai on 08.12.2014 and while filing counter to the said petition before the Wakf Tribunal, the Tamil Nadu Wakf Board took a stand that Wakf has been taken over by the direct management by proceedings dated 26.11.2014.

4.The petitioner would state that while enquiry itself was scheduled on 26.11.2014, there could not have been an order for direct Management on the said date and the order is pre-dated. Immediately the petitioner moved the Wakf Tribunal by way of an interim application in IA No.19720/2014 praying for setting aside of the operation of the order dated 26.11.2014. The petitioner would contend that they are not even communicated with such an order. The Tribunal after taking into consideration of the facts, passed an order on 19.12.2014 granting interim stay of the operation of the order dated 26.11.2014. The order of the Tribunal continues to be in force. In the interregnum, the Tamil Nadu Wakf Board represented by the Chief Executive Officer filed a writ petition in WP.No.34574/2014 questioning the jurisdiction of the

Wakf Tribunal at Chennai and they have sought for the issuance of a writ of mandamus to direct the 2nd respondent, the Wakf Board to exercise the powers only as provided u/s.83 of the Wakf Act and returning of the application filed by the petitioner in OA.No.15/2014. The said writ petition is pending and this Court has granted an interim order restraining the Wakf Tribunal, Chennai, from proceeding further in OA.No.15/2014. Thus, as on date, the interim stay granted in IA.No.19720/2014 is still in force. That apart, the interim injunction granted by the Wakf Tribunal on 26.11.2014 is also in force. That apart, the petitioner approached this Court earlier when tenants of the petitioner's Wakf were sought to be disturbed, by filing WP.No.31768/2014. The said writ petition was entertained and an order of interim injunction was granted only to the limited extent of protecting the existing tenancies; but the petitioner was restrained from creating the new tenancies. The said writ petition is also pending.

5. In the light of the above, this Court is convinced that the petitioner has made out a prima facie case for granting interim stay. Accordingly, there will be an order of interim stay. It is made clear that by virtue of interim order granted, no encumbrances shall be created by the petitioner Wakf or any of its properties nor any construction put up in the Wakf property."

4. Admittedly, there are several writ petitions pending on the file of this Court between the parties to this writ petition. Now, it is brought to the notice of this Court that both, viz., the petitioner as well as the third respondent had submitted separate applications for the grant of electricity service connection for the premises.

5. Mr.Raja Kalifulla, learned Senior Counsel appearing for the petitioner submitted that by keeping the premises under lock and key, without being utilised and leased out to the tenants, the third respondent is losing heavily towards the monthly rent. According to the learned Senior counsel, if the 40 shops constructed are leased out to the tenants, it would fetch roughly around Rs.2,50,000/- per month. Admittedly, the construction of the shops were completed in July 2014 itself and since then, the shops are lying vacant without earning any rent, which ultimately cause loss to the third respondent Wakf Board.

6. Learned Senior counsel also submitted that the service connection be granted in the name of the Wakf. He would further submit that this Court may make it clear that mere granting of service connection in the name of the Wakf will not confer any right in respect of the demised premises.

7. Mr.V.Lakshmi Narayanan, learned counsel appearing for the third respondent also submitted that the service connection may be granted in the name of the Wakf and the second respondent may be directed to consider the application filed by the third respondent and pass appropriate orders on the same.

8. Having regard to the submissions made by the learned counsel on either side, the second respondent is directed to grant service connection to each of the newly constructed 40 shops and also two, three phase connections for the shopping complex situated in T.S.No.197 bearing Door No.23, 24/21,22, Ghouse Sahib Street, Khaderpet, Tiruppur Taluk and District by processing the application filed by the third respondent and effect the service connection in the name of the Wakf. Further it is made clear that the grant of the electricity service connection in the name of the Wakf shall not confer any title or right over the property, since the dispute is pending before this Court in various writ petitions. It is also made clear that except for directing to grant the electricity service connection, all other issues raised will be decided in the other writ petitions pending before this Court and any observation given in this writ petition shall not have any bearing in the other pending writ petitions.

9. Accordingly, there shall be a direction to the second respondent to effect electricity service connection, viz., to each of the 40 newly constructed shops and two three phase connection in the aforesaid premises within a period of four weeks from the date of payment of necessary charges by the Wakf.

10. With these observations, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vj2

To

1. The Assistant Executive Engineer
The Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
(TANGEDCO), Tiruppur Region
Royapuram, Tiruppur 641 001.

2. The Secretary
The Tamil Nadu Wakf Board
No.1, Jaffar Sarang Street
Chennai 600 001.

1 cc to mr.S.K. Raameshwar, Advocate, sr. 14344
1 cc to M/s. D. Geetha, Advocate, Sr. 14301
1 cc to Mr.V. Raghavachari, Advocate, sR. 14323

W.P.No.2809 of 2015

NM (CO)
kk 17/3



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