

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 11.08.2014

DATED : 11.12.2015

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THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.5141 of 2014

P.Kumar

... Petitioner

vs.

1.The Chairman
Tamil Nadu Electricity Board
No.880, Anna Salai, Chennai-600 002

2.The Assistant Executive Engineer
Tamil Nadu Electricity Board
M.G.R.Nagar, Chennai-600 078

3.R.Padma

4.R.Sudha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the respondents to provide a new electricity connection in my name to my premises namely No.50, Annai Sathya Street, M.G.R.Nagar, Chennai-600 078, within a stipulated time in accordance with law.

For Petitioner : Mr.A.D.Jaganathan
For Respondents : Mr.P.Gunaraj
(Electricity Board counsel for R1 and R2)
Mrs.D.Prasanna for R3 and R4

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ORDER

The short facts of the case are as follows:

The petitioner has submitted that his father late Mr.C.Ramaiah was having possession of the property for more than 40 years and the Slum Clearance Board acquired the property and allotted it to his father in the year of 1981 and both the Slum Clearance Board and his father entered into a lease cum Sale agreement on 01.10.1981 and he had paid entire sale consideration. They are living along with his parent under one roof and having the electricity connection in the name of his father and they are jointly using the said power supply. His father Mr.C.Ramaiah died on 09.05.2002 leaving behind the petitioner, his mother viz., Mrs.Meena, his brother R.Chellakannu and his sisters Mrs.R.Padma and Ms.R.Sudha as his legal heirs. From that day onwards the legal heirs of Mr.C.Ramaiah are in lawful possession and enjoyment of the said property. Ever since the demise of Mr.C.Ramaiah the legal heirs are maintaining the property by paying taxes and electricity charges and enjoying the said property.

2.The petitioner has submitted that on 04.03.2011 the Slum Clearance Board executed a sale deed to and in favour of the legal heirs of Mr.C.Ramaiah. They are jointly executing the sale deed as purchasers. After the purchase, they were living separately in the said premises and his mother was living along with him in the said premises. The Electricity Charges was paid by him for entire portions of the said premises, which is in the name of his father. All of a sudden, his mother died on 27.06.2011 leaving behind the same persons as her legal heirs. After the death of his mother, necessary procedures had been carried out to remove the name and insert his name as head of the family in his ration card. He has been living separately in the said premises. But, the Electricity connection is in the name of his father being used by all the family members. They are having several misunderstanding between themselves for paying electricity charges. Hence, he has wanted separate connection in his name since he was also one of the co-owner of the said property and also as he is living in the said premises separately.

3.The petitioner has submitted that he has applied for separate electricity connection in his name to the 2nd respondent. After receipt of the application, the 2nd respondent did not take action to give electricity connection separately in his name. The Electricity Board's officials, after

proper investigation has permitted him to apply for the electricity connection and in pursuant to the permission, he has also applied for the new electricity connection in his name. He was expecting the Electricity Board Officials to give the electricity connection but the official who inspected the premises called upon him to pay cost towards the estimate. He had also paid the said amount and receipt was also issued by the Electricity Board.

4.The petitioner has submitted that there was absolutely no response from the electricity department and hence he went in person to enquire about the same. The Officials did not respond or answer him in a proper manner. There was a long silence and hence there was no other option except to file the writ petition. The non-giving of new electricity connection for him to his portion is not legally tenable because of the well laid and well settled position of law. He is also not in a position to know why his application for getting a new electricity connection is not proceeded further in a manner known to law. Having waited for all the days he has got no other option except to file this petition to give a new connection to his portion at No.50, Annai Sathya Street, M.G.R.Nagar, Chennai-600 078.

5.The petitioner has submitted that he has requested the officials on several occasions to provide new electricity connection in his name but they

are evading to give an electricity connection to his property. Subsequently, the officials informed him that his sisters the respondents 3 and 4 herein had objected to give electricity connection in his name, and hence they were not able to give electricity connection. Nobody can object to give new electricity connection since he is also having a share of the property and living separately in the said premises. Further, the Tamil Nadu Slum Clearance Board executed a sale deed in favour of legal heirs of his father viz., Mr.Ramaiah, who died on 09.05.2002, and they have got a Legal heirship Certificate. He is one of the Co-owners of the property. Hence, in the interest of justice it is just and necessary to direct the respondents to provide an electricity connection as prayed for.

6.The respondents have filed their counter affidavit stating that the petitioner applied for a new service connection for the subject matter of the property along with a copy of property tax receipt and E.B.Card bearing service connection No.286-14-443, without mentioning the address and the name of the owner of the said service connection. In the meantime, the respondents 3 and 4 had raised objection stating that they are the sisters of the petitioner and without their knowledge, he had applied for new service connection. Therefore, the Assistant Engineer, O & M, M.G.R.Nagar, Chennai-600 078, had issued a notice, dated 14.02.2014, informing the petitioner to

produce documents in his name to get new service connection. Furthermore, already electricity service connection is existing in the subject matter of property in the name of the petitioner's father and hence another service connection in his name cannot be effected as per the existing law and TNERC Regulations.

7.Further, the respondents 1 and 2 have submitted that the petitioner had occupied a portion of the property, which stands in the name of his father Ramaiah, who had purchased the said property. His mother also died. The subject matter of property stands in the name of the deceased Ramaiah as no partition was effected among the legal heirs. In such circumstances, the application submitted by the petitioner for new service connection could not be considered and hence they have prayed this Court to dismiss the writ petition.

8.The respondents 3 and 4 have filed their counter affidavit stating that their father Ramaiah died during 2002, leaving behind them, their mother and two sons as the legal heirs. The subject matter of property was allotted in their father's name by Tamil Nadu Slum Clearance Board. Patta has been issued in the name of all the legal heirs. During 1985, their father took single phase electricity service connections and he had paid the electricity charges

regularly without any default. Even he had paid the property tax, water tax etc., without any default. After his demise, all the legal heirs are residing under one roof without any partition and hence the legal heirs are entitled to equal share. Therefore, they have prayed this Court to dismiss the writ petition.

9. The learned counsel appearing for the petitioner has submitted that the petitioner's father Ramaiah was allotted a property by the Tamil Nadu Slum Clearance Board and he had remitted the entire sale consideration to the Board. The said Ramiah along with his family members had been living under one roof and they had been using electricity service connection jointly. After the demise of Ramiah, the petitioner, his mother Meena, brother Chellakannu and sisters Padma and Sudha / respondents 3 and 4 are in lawful possession and enjoyment of the property. Further, the Slum Clearance Board had executed a Sale Deed in their favour. The petitioner and his mother are living in a separate portion and others are living in a separate portion of the property. The petitioner has paid the electricity charges for the entire property. In such circumstances, his mother died on 27.06.2011 and difference of opinion arose between the legal heirs. Hence, the petitioner made an application to the second respondent seeking separate electricity service connection in his name. The officials had inspected the premises and directed

him to pay the estimate cost and accordingly he had also paid the same. However, the second respondent has not proceeded further. Hence, the petitioner has filed this writ petition seeking the relief as stated above.

10.The learned counsel appearing for the respondents 1 and 2 has submitted that after the death of Ramaiah, Patta has been issued in favour of all the legal heirs, consisting of five members. Now, all of them are living under the same roof without any partition. Therefore, separate electricity service connection is not required. Furthermore, property tax, water tax and electricity charges are being remitted by all the legal heirs. Therefore, the learned counsel has prayed this Court to dismiss the writ petition.

11.The learned counsel appearing for the respondents 3 and 4 has submitted that the petitioner has requested the Electricity Board to provide a separate service connection to the subject matter of the property in his name. The co-owners, namely, respondents 3 and 4 have raised objection for providing separate service connection. Further, the Sale Deed in respect of the subject property stands in the name of all the legal heirs and the property tax had been paid by the original owner, namely, Late.Ramaiah. Therefore, the Assistant Engineer had directed the petitioner to produce relevant documents, but the petitioner has not produced any documents. Furthermore, there is

electricity service connection. For all the reasons, the learned counsel has prayed this Court to dismiss the writ petition.

12. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the petitioner is not the absolute owner of the property, besides the other co-owners have raised objection for providing service connection. Further, the petitioner does not possess any valid title deed over the subject matter of the property in order to obtain a separate service connection in his name. Hence, the above writ petition is liable to be dismissed.

13. In the result, the writ petition fails and it is dismissed. No costs.

11.12.2015

Index : Yes/No
Internet : Yes/No

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C.S.KARNAN, J.

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To:

- 1.The Chairman,
Tamil Nadu Electricity Board,
No.880, Anna Salai, Chennai-600 002.
- 2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
M.G.R.Nagar, Chennai-600 078.

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