

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

W.P.No.3817 of 2015

K.Selvakumar

.. Petitioner

v.

The Assistant Engineer (O & M)
Tamilnadu Electricity Generation and
Distribution Corporation, Chetpet
Chennai - 31.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the respondent to consider the petitioner's representation dated 27.01.2015 to provide separate electricity connection for usage for the petitioner's premises at Old No.16/New No.8, Jagannathapuram 5th Street, Chetpet, Chennai - 31.

For Petitioner : Mr.M.Anbalagan

For Respondent : Mr.P.R.Dilp Kumar
Standing Counsel for TNEB

ORDER

The petitioner has filed the above writ petition to issue a writ of mandamus directing the respondent to consider the petitioner's representation dated 27.01.2015 to provide separate electricity connection for usage of his premises at Old No.16/New No.8, Jagannathapuram 5th Street, Chetpet, Chennai - 31.

2. It is the case of the petitioner that he has filed a suit for partition in O.S.No.2748 of 2008 on the file of the VIII Assistant Judge, City Civil Court, Chennai. The trial Court passed a preliminary decree finding that the petitioner is entitled to 1/4th share in the suit property. Aggrieved over the preliminary decree passed by the trial Court, the first defendant preferred an appeal in A.S.No.356 of 2010 on the file of the V Additional Judge, City Civil Court, Chennai and the lower appellate Court, by its judgment and decree dated 22.11.2013, confirmed the preliminary decree passed by the trial Court and dismissed the appeal.

3. According to the learned counsel for the petitioner, the petitioner has not filed any appeal as against the judgment and decree passed in the first appeal. Therefore, the judgment and decree passed by the trial Court has become final. Pursuant to the preliminary decree passed by the trial Court, the petitioner filed a final decree application in I.A.No.14195 of 2010 in O.S.No.2748 of

2008 for passing of final decree. According to the learned counsel for the petitioner, the final decree application is pending before the trial Court for adjudication.

4. On a perusal of the preliminary decree passed by the trial Court, it could be seen that the petitioner was allotted 1/4th share in three items of property. According to the petitioner, he is residing in "B" schedule of the suit property. Further the petitioner has stated that on 27.01.2015, the petitioner has given a representation to the respondent for getting separate electricity connection. It is also not in dispute that the petitioner is enjoying electricity in the said premises which stands in the name of his grandfather. Though the trial Court has found that the petitioner is entitled to 1/4th share in the suit property, no specific portion has been allotted to the petitioner so far in the final decree application. The same will be allotted only at the time of passing of the final decree.

5. In the event of the respondent providing separate electricity connection and in the event of the 'B' scheduled property not being allotted to the petitioner, it is open to the petitioner to give appropriate application to the respondent for shifting or surrendering the service connection and the respondent is at liberty to decide the said application, if any filed by the petitioner, on merits and in accordance with law.

6. Mr.P.R.Dilip Kumar, the learned counsel for the respondent submitted that the respondent may be directed to consider the representation given by the petitioner dated 27.01.2015 on merits and in accordance with law, within a stipulated time.

7. Having regard to the submissions made by the learned counsel on either side, without expressing any opinion with regard to the merits of the case, I direct the respondent to consider the petitioner's representation dated 27.01.2015 and pass orders on merits and in accordance with law within three weeks from the date of receipt of a copy of this order, after giving notice to the defendants in O.S.No.2748 of 2008. The respondent shall decide the matter only after hearing the defendants in O.S.No.2748 of 2008. In the event of the respondent giving a separate electricity connection to the petitioner, the same will not give any advantage or the petitioner will stand in a better footing claiming equity in the final decree proceedings.

With this observation, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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gms

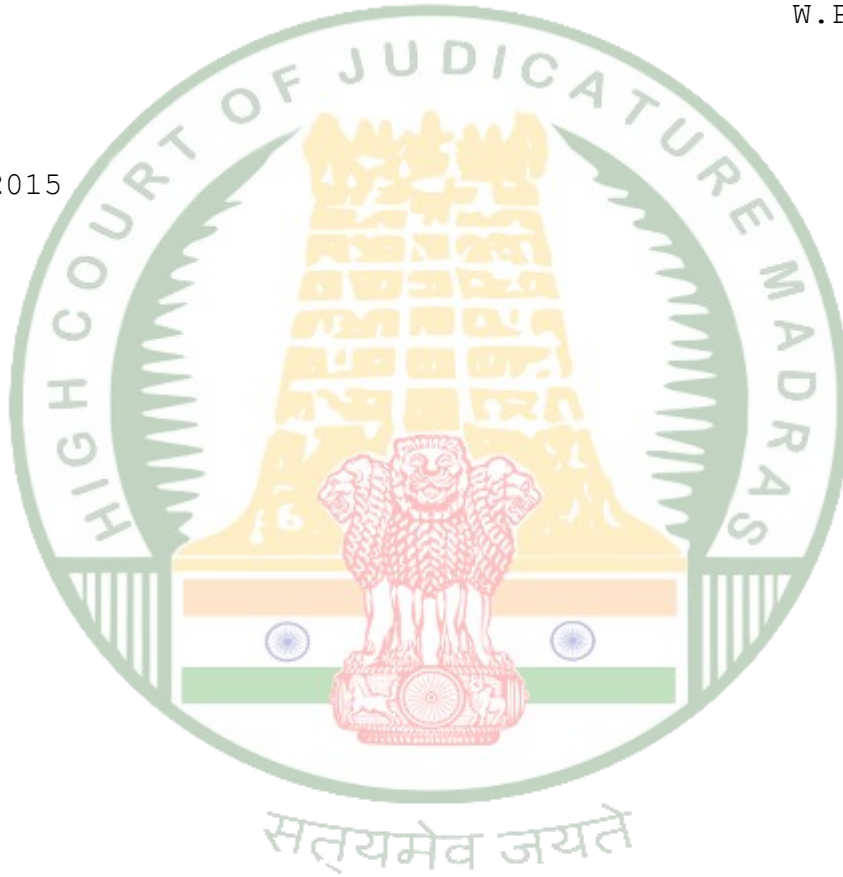
To

The Assistant Engineer (O & M)
Tamilnadu Electricity Generation and
Distribution Corporation, Chetpet
Chennai - 31.

+ 1 cc to Mr.P.R. Dhilpkukar, Advocate SR.9840
+ 1 cc to Mr.M. Anbalagan, Advocate SR.9881

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VSN(CO)
EU 13.03.2015



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