

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.6128 of 2015

H.Maheshwari

.. Petitioner

Vs.

1. The Area Engineer
Tamilnadu Electricity Board
CED/South/Adyar
Chennai - 600 020

2.B.Selvi

3.Elangovan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to give separate new electricity connection in favour of the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.P.Gunaraj for R1
Mr.A.R.Palanisamy for R2 and R3

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By consent, the writ petition itself is taken up for final disposal.

2. The petitioner would state that her husband Late Harikrishnan had purchased, a house property bearing Old No.13, New No.336, Mallaigaipoo Nagar, Adyar, Chennai - 600 020, by way of sale deed dated 25.11.1990 and the property measures to an extent of 15 x 10 feet. The petitioner's husband died on 05.06.2012 and thereafter the petitioner along with her children, who are three in numbers, as his legal heirs, are in peaceful possession and

enjoyment of the property. The petitioner applied for a separate electricity service connection before the respondent after paying necessary fees and it was objected to by her husband's cousin sister Selvi and her son Elangovan and they also filed O.S.No.7102 of 2014 on the file of the IV Assistant Judge, City Civil Court, Chennai praying for permanent injunction restraining the Electricity Board from issuing new electricity service connection. Pending disposal of the suit, they filed I.A.No.19231 of 2014 for ad-interim injunction, but the interim orders were not granted.

3.It is the case of the petitioner that since the electricity service connection is a basic amenity, the respondent, in all fairness, should have considered her application dated 11.07.2014 and provided electricity service connection and hence, prays for appropriate orders.

4. Heard the submissions of Mr.Karunakaran, learned counsel appearing for the petitioner, who would submit that in the light of clause 27(4) of the Tamil Nadu Electricity Supply Code, 2004 coupled with very many judgments rendered by this Court, there cannot be any impediment on the part of the first respondent to consider and dispose of the petitioner's application in accordance with law and prays for appropriate orders.

5.Mr.P.Gunaraj, the learned counsel, who appears for the first respondent, has drawn the attention of this Court to the counter affidavit and would submit that one Elangovan, the third respondent, has submitted an objection not to grant service connection to the petition premises stating that a Civil Suit in O.S.No.7102 of 2014 is pending on the file of the IV Assistant Judge, City Civil Court, Chennai and in the light of the said objection, the petitioner was asked to produce document in respect of her lawful possession of the petition premises, the partition deed if any, the sale deed if any along with decree and judgment passed in O.S.No.7102 of 2014 pending on the file of the City Civil Court, Chennai.

6. This Court heard the rival submissions and also perused the materials placed before this Court.

7. This Court in T.M.Prakash Vs. The District Collector, Tiruvannamalai District, Tiruvannamalai and another reported in 2013 (6) CTC 849 observed as follows:

"Right to Electricity to a person in occupation of Government Poromboke lands is recognised in the Distribution Code and it is integral to the achievement of socio-economic rights. It is extricably related to amolurate poverty. Electricity is an implicit component and facet of human right. In the light of the above discussion, the Respondents ought to have come forward to provide Electricity supply to the petitioners, instead of opposing the relief sought for.

Access to Electricity should be construed as a human right, of course, to the requirements to be satisfied under the Electricity Laws. Denial of the same, upon even satisfying the requirements, would amount to violation of human rights. The action of the respondents is regressive. Electricity supply under the Electricity Act, the Distribution and Supply Code, is a legal right. At this juncture, this Court deems it fit to consider the meaning of the word, 'right' and few decisions, as to when a Mandamus, can be sought for.

It is the fundamental duty of the Respondents to show compassion to those, who are living in huts and tenements for long number of years, taking into consideration their socio-economic disabilities, without electricity supply for many years. Preamble to the Constitution of India guarantees right of every person to justice, social, economic and political. When socio and economic justice is the mandate of the Constitution of India, it is a traversity of justice to deny electricity to the petitioners. Income is one of the sources for achieving an egalitarian society and it is the fundamental right to decent living. Providing Electricity to the poor, subject to the satisfying conditions, as per the Electricity Laws, would reduce the economic imbalance and help the under privileged. The Authorities should be pragmatic and realistic to the Constitutional goals. The weaker sections and under privileged do not crave, in their heart, for power in hierarchical positions, they only want electric power to have "lighting" in their house. Hut dwellers cannot expect and afford luxury. But for them, it is only a basic amenity. Electricity supply should, not only be extended to Pattadars or the owners of lands, but it should also be extended to the poor and the needy, who live in Government Poromboke lands, when they substantiate occupation, for a considerable period.

8. The scope of clause 27(4) came up for consideration and this Court vide order dated 21.09.2011 made in W.P.No.17479 and 18041 of 2011 has observed as follows:

"9. Therefore, on a perusal of the above, it is clear that the occupant of the premises who is not the owner, can avail the electricity on producing proof of his being in lawful occupation of the premises as well as executing an indemnity bond and making security deposit in the event of any loss arising out of effecting such service connection."

9. In the light of the above cited judgments coupled with Electricity Supply Distribution Code, 2004, the writ petition is disposed of and the respondent is directed to consider the application dated 11.07.2014 submitted by the petitioner for effecting new service connection, after taking note of the above cited judgments and clause 27(4) of the Electricity Supply

Distribution Code, 2004 and pass orders accordingly within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. No costs.

Sd/-
Asst.Registrar (J)

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Sub Asst. Registrar

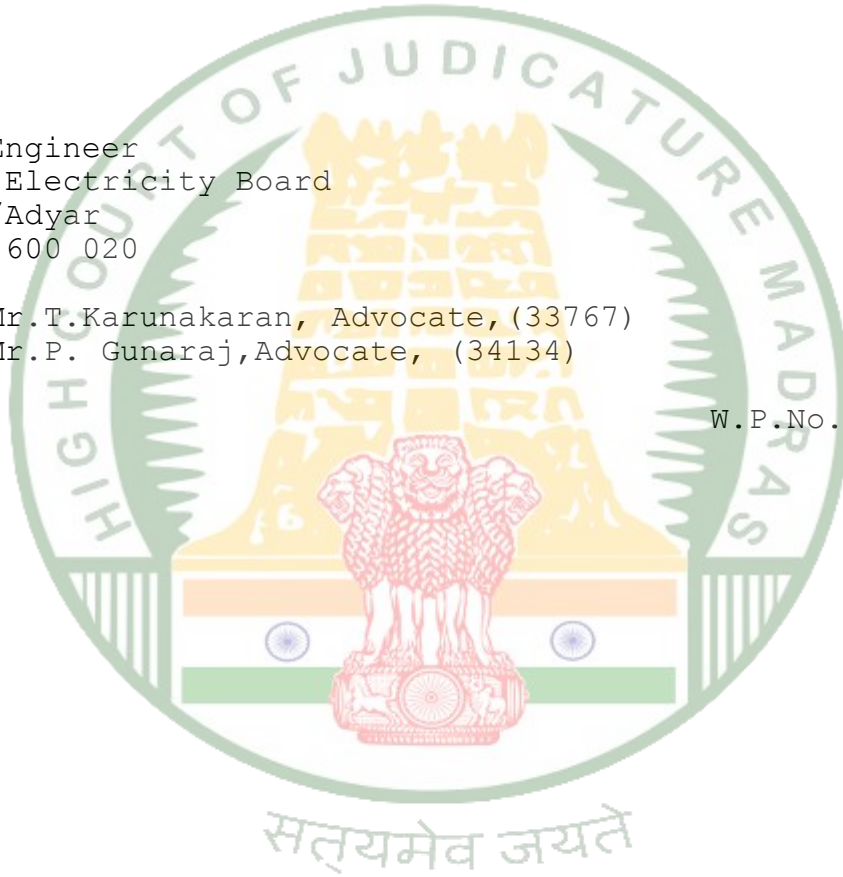
gpa
To

The Area Engineer
Tamilnadu Electricity Board
CED/South/Adyar
Chennai - 600 020

+1 cc to Mr.T.Karunakaran, Advocate, (33767)
+1 cc to Mr.P. Gunaraj, Advocate, (34134)

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kra(24/07)

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