

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.05.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P. No.7448 of 2015

K.Saraswathi

... Petitioner

vs.

1. The Assistant Electrical Engineer,
Tamil Nadu Electricity Board,
Nallur - 641 606.
Tirupur, Tirupur District.

2. The Executive Officer,
Arulmighu Vishweswara Swamy Temple,
Eswaran Kovil, Eswaran Kovil Street,
Tirupur, Tirupur District.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus to call for the records of the first respondent relating to order dated 09.03.2015 passed in Ka.No.Assistant Electrical Engineer/ Nallur/ Tiruppur/ Dvn.Indl./ Ka.No.180 and quash the same and consequently direct the first respondent to give electricity service connection to the house in S.F.No.165, Site No.44, Thiruvankada Nagar 3rd Street, Nallur, Tirupur - 641 606, Tirupur District, on receipt of the application for electricity service connection from the petitioner.

For Petitioner : Mr.R.Sreerangan

For Respondents : Mr.S.K.Rameshwar for R1

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ORDER

This writ petition has been filed, challenging the impugned order dated 09.03.2015 in Ka.No.Assistant Electrical Engineer/ Nallur/ Tiruppur/ Dvn.Indl./ Ka.No.180 and quash the same and

consequently direct the first respondent to give electricity service connection to the house in S.F.No.165, Site No.44, Thiruvankada Nagar 3rd Street, Nallur, Tirupur - 641 606, Tirupur District, on receipt of the application for electricity service connection from the petitioner.

2.The case of the petitioner is that she purchased a plot viz., the vacant site bearing S.F.No.165, Site No.44, Thiruvankada Nagar 3rd Street, Nallur, Tirupur - 641 606, Tirupur District, measuring about 895 sq.ft. by a sale deed dated 31.08.2000 and registered as Document No.1459/2000. From the date of purchase, she is in absolute possession and enjoyment of the said property. Now, the petitioner has also constructed a house in the said site. After construction, the petitioner has applied for electricity service connection to the constructed house. But the first respondent, by letter dated 09.03.2015, returned the petitioner's application for electricity service connection mechanically merely because the second respondent Executive Officer of Arulmighu Vishweswara Swamy Temple, by letter dated 12.04.2002, objected for giving electricity service connection for the lands comprised in S.F.No.165, Site No.44, Thiruvankada Nagar 3rd Street, Nallur, Tirupur - 641 606, Tirupur District belongs to temple. Hence the petitioner has come forward with this writ petition for the relief stated supra.

3.Counter has been filed by the first respondent stating that since the temple authorities are raising objection, the first respondent Board is not in a position to effect the new electricity service connection. Thus, the first respondent sought for dismissal of the writ petition.

4.Today, when the writ petition came up for consideration, the learned counsel for the petitioner produced a copy of the order dated 08.08.2012 in W.P.Nos.17681 to 17685 of 2012 (B.Rajendran and others v. Assistant Engineer, TNEB, Nallur and another), passed by this Court and submitted that in similar circumstances, this Court, by relying on the earlier order dated 27.07.2007 made in W.P.Nos.22912 to 22916 of 2007, disposed of a batch of writ petitions. The learned counsel for the petitioners prayed that the same order may be passed in the present writ petition.

5.The learned counsel appearing for the first respondent submitted that without prejudice to the rights of the second respondent to proceed against the petitioner under Section 78 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, similar direction may be issued in the present writ petition also.

6.Heard the learned counsel for the petitioner and the learned standing counsel for the first respondent.

7.This Court perused the order dated 08.08.2012 passed in W.P.Nos.17681 to 17685 of 2012 filed by B.Rajendran and others against the respondents 1 and 2, in and under which, this Court referred to the earlier order of this Court dated 27.07.2007 made in W.P.Nos.22912 to 22916 of 2007, wherein, a batch of writ petitions were disposed of by observing as follows:

"2.This Court, by an order dated 2.7.2007 in W.P.Nos.11219 and 11220 of 2007, has disposed of the similar matters observing that pending proceedings initiated by the second respondent, the petitioners are entitled to have electricity connection even assuming that they have encroached the land belonging to the second respondent. Therefore, the first respondent therein was directed to provide electricity connection in respect of house -sites in possession of the petitioners therein, in accordance with Regulation 27(12) of the Tamil Nadu Electricity Distribution code, within a period of eight weeks from the date of receipt of application for supply of electricity service connection from the petitioners. It was further observed that this direction to the first respondent to provide electricity connection to the petitioners' house sites cannot be against the second respondent in any of the proceedings initiated by it under Section 78 of the Tamil Nadu H.R & C.E. Act.

3.Since the matters in hand are similar to the one extracted above, with the same direction in these writ petitions also, they stand disposed of. No costs. Consequently, connected M.Ps are also closed."

8.In my considered view, the earlier orders passed by this Court are squarely applicable to the facts of the present case. Following the same, the present writ petition is liable to be disposed of, on the same terms and directions, as extracted above.

9.In the result, the writ petition is allowed by quashing the impugned order dated 09.03.2015 passed by the first respondent. The first respondent is directed to provide electricity service connection in respect of house site in possession of the petitioner herein, in accordance with Regulation 27(12) of the Tamil Nadu Electricity Distribution Code, within a period of eight weeks from

the date of receipt of application for supply of electricity service connection from the petitioner herein. However, it is made clear that this direction to the first respondent to provide electricity connection to the petitioner's house site cannot be against the second respondent in any of the proceedings initiated by it under Section 78 of the Tamil Nadu H.R & C.E. Act. No costs.

Sd/-
Assistant Registrar(CS II)/
Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Electrical Engineer,
Tamil Nadu Electricity Board,
Nallur - 641 606.
Tirupur, Tirupur District.
2. The Executive Officer,
Arulmighu Vishweswara Swamy Temple,
Eswaran Kovil, Eswaran Kovil Street,
Tirupur, Tirupur District.

+1cc to Mr.R.Sreerangan, Advocate, S.R.No.25214

W.P.No.7448 of 2015

MG(CO)
CA(22/05/2015)

सत्यमेव जयते
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