



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2015

Coram

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) .No.6802 of 2015

and

M.P. (MD) No.1 of 2015

R.Balachandran

:Petitioner

vs.

1.The Junior Engineer,
Tamil Nadu Generation of Distribution of
Electricity Corporation (TANGEDCO),
Previously Tamil Nadu Electricity Board,
Thippiarajapuram, Kumbakonam Taluk,
Tanjore District.

2.A.Kothandapani

3.A.Seenivasan

4.A.Ravichandran

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus, directing the respondents to grant Electricity supply to the petitioner's newly constructed house in Door No.2/417, (S.No.337/1B) Srirengarajapuram, Malaiyappanallur, Sivapuram Post, Kumbakonam Taluk, Tanjore District, based on his application, dated 17.03.2015, without insisting upon the documents relating to the title of the above said property, as per Section 27 of the Electricity Act, within a stipulated time that may be fixed by this Court.

For Petitioner :Mr.V.Perumal

For Respondent-1 :Mr.S.M.S.Johny Basha
Standing CounselFor Respondents :Mr.Balasundaram
(R2 to R4)

O R D E R

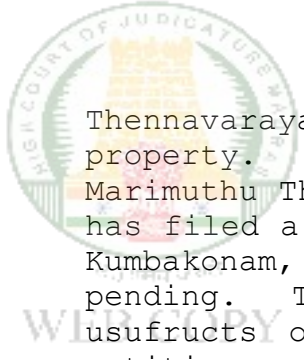
The Writ Petition has been filed, praying for issuance of a Writ of Mandamus, directing the respondents to grant Electricity Service Connection, to the petitioner's newly constructed house, in Door No.2/417, (S.No.337/1B) Srirengarajapuram, Malaiyappanallur, Sivapuram Post, Kumbakonam Taluk, Tanjore District, based on his application, dated 17.03.2015, without insisting upon the documents relating to the title of the above said property, as per Section 27 of the Electricity Act, within a stipulated time fixed by this Court.



2. The petitioner is the owner of the land situated in Survey No.337/1B, Srirengarajapuram Village, which was originally a Punja land and subsequently, the land was converted as a house site by the petitioner and he put up a house on the said land, after obtaining a proper approval from the Panchayat concerned. Thereafter, the petitioner made an application to the 1st respondent, for granting of single phase supply, under Tariff 1A, which is for domestic purpose. Along with the application for grant of electricity supply, the petitioner enclosed the house tax receipt and the certificate issued by the Village Administrative Officer of the Revenue Village, where the property is situated. The said application has been submitted before the 1st respondent, as early as on 24.02.2014. The petitioner was under the fond hope that the 1st respondent would process his application and provide electricity service connection, as per the seniority maintained by the 1st respondent. But there was no communication from the 1st respondent with regard to providing electricity service connection. Hence, the petitioner went to the office of the 1st respondent and enquired the status of the application. The respondent, without assigning any reasons simply returned the application on 24.02.2014, by informing the petitioner that some third parties have objected for granting electricity service connection to the petitioner's newly constructed house. Hence, the petitioner filed a Writ Petition in W.P.(MD)No.2566 of 2015, as against the first respondent, for a Mandamus, directing the 1st respondent to grant electricity supply to the petitioner's newly constructed house in Door No.2/417, (Sy.No.337/18) Srirengarajapuram, Malaiyappanallur, Sivapuram Post, Kumbakonam Taluk, Tanjore District, based on his application dated 24.02.2014.

3. In the said writ petition, this Court has directed the petitioner to submit a fresh application to the respondent and on receipt of such application, the authority concerned shall consider the same and pass appropriate orders, as expeditiously as possible. Thereafter, the petitioner submitted an application along with necessary documents on 01.04.2015, through his counsel. The first respondent sent a reply through his counsel on 13.04.2015 stating that the proceedings with regard to the petitioner's house site is pending before the Revenue Authorities and some third parties, claiming to be trustees of a Trust are also claiming right over the same and hence, the petitioner's request could not be considered. Hence, aggrieved by the same, the present writ petition has been filed, for the relief, as stated supra. In support of his contention, the learned counsel placed reliance upon a judgment reported in 2009 (4) CTC 606, A.Muthusamy Vs. The Assistant Engineer, Tamil Nadu Electricity Board to lay the emphasis of the fact that mere grant of electricity supply would not confer any right for the petitioners in respect of the land in question.

4. The 4th respondent has filed a counter on behalf of respondents 2 and 3 stating that S.No.337/1 of Srirengarajapuram, Malaiyappanallur, Sivapuram Post, Kumbakonam Taluk, Tanjore District, is a private trust property, which belongs to Sri Predhivadhi Bayangara Anna Madam alias Krishna Ramanujam Chettiar Madam. The petitioner is one of the Trustees of the said Madam. The said Madam was created by his ancestors viz., Krishnasamy Chettiar in the year 1893, by means of a registered sale deed, dated 17.11.1941. The S.No.337/1 was leased out to one Marimuthu



Thennavarayar, to enjoy the usufruct of the coconut trees in the said property. The petitioner is none else than the grandson of lessee Marimuthu Thennavarayar. It is further submitted that the 4th respondent has filed a Suit in O.S.No.76 of 2014, before the District Munsif Court, Kumbakonam, for declaration and recovery of possession and the same is pending. The petitioner has no right over the said land to enjoy the usufructs of the trees found in the above said survey numbers. The petitioner now committed a breach of trust and claimed title to the property of the private trust. Thus the 4th respondent has sought for dismissal of the writ petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. From the materials on record it could be deduced that right from the year 1941, the property was in the possession of the family of the petitioner. The petitioner was a lessee in respect of the said property. The fact that the 4th respondent has filed a Suit in O.S.No.76 of 2014, against the petitioner, for declaration and recovery of possession, which would itself show that the petitioner is in possession of the property. But, according to the respondent, the petitioner is entitled to enjoy the usufructuary right alone in the said property. This Court cannot go to conduct any roving enquiry, whether the petitioner is entitled to usufructuary right or he is owning the property. But the fact remains that he is in possession of the property and has also constructed a house. When that being so, the petitioner is entitled to have a service connection. In fact, as per Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code, the electricity service can be provided to the petitioner.

7. Accordingly, there shall be a direction to the 1st respondent, to consider the petitioner's request, for electricity service connection, in terms of Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code and grant electricity supply, after obtaining the indemnity bond in the statutory form and required fees, within a period of four weeks from the date of receipt of a copy of this order, if the application of the petitioner is otherwise found to be in order. However, this Court makes it clear that mere grant of electricity supply would not confer any right to the petitioner in respect of the land in question.

8. The Writ Petition is disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

The Assistant Registrar

/True copy/

Sub-Assistant Registrar



To

The Junior Engineer,
Tamil Nadu Generation of Distribution of
Electricity Corporation (TANGEDCO),
Previously Tamil Nadu Electricity Board,
Thippiarajapuram, Kumbakonam Taluk,
Tanjore District.

+2cc to Mr.V.Perumal, Advocate SR.No.45359
+1cc to Mr.K.BaalaSundaram, Advocate SR.No.45383

mpk

Sm:JGB-AAL:sARI:20.08.2015:1P/5C

W.P. (MD) .No.6802 of 2015
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