



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.02.2015

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.7660 of 2011

and

M.P(MD)No.1 of 2011

M.Krishnaveni

... Petitioner

Vs.

1.The Assistant Executive Engineer,
Operation and Maintenance
Tamil Nadu Electricity Board, Musiri.

2.The Assistant Superintending Engineer,
Distribution/Vigilance, Trichy-20.

3.The Assistant Superintending Engineer,
Operation and Maintenance
Tamil Nadu Electricity Generation and Distribution,
Corporation Limited, Musiri Town.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent dated 29.06.2011 and quash the same.

For Petitioner : Mr.M.Seetha for
Mr.K.Govindarajan

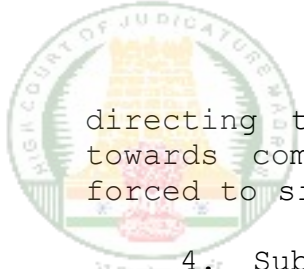
For Respondents : Mrs.S.Srimathy for
S.M.S.Johnny Basha

ORDER

The petitioner has come up with this writ petition to call for the records of the 1st respondent dated 29.06.2011 and quash the same.

2.The petitioner is the owner of the property comprised in Survey No.76/4B, Musiri Antharapatti Road, West Side, Musiri Town. The petitioner put up a construction in the said property after obtaining approval from the Executive Officer of the Musiri Town Panchayat by the approval dated 23.06.2010. Subsequent to the plan approval, the petitioner approached the respondents for temporary service connection for the purpose of construction. On the petitioner's request, the first respondent provided temporary service connection in No.376/V.

3.On 15.06.2011 the respondents 2 & 3 inspected the premises at 10.10 p.m., and found that there was no defect in the meter, however, the petitioner is constructing a Church. The petitioner obtained a service connection for residential purpose. According to the petitioner, he is using the service connection only for construction of church. Based on the Inspection on 15.06.2011, the respondents issued a working sheet



directing the petitioner to pay a sum of Rs.62,810/- and Rs.1,000/- towards compound charge to avoid criminal complaint under threat and forced to sign in the blank papers.

4. Subsequently, the revised working sheet was served upon the petitioner directing the petitioner to pay a sum of Rs.20,910/- by the impugned working sheet. Challenging the said impugned working sheet, the petitioner has filed the present writ petition on the ground that the impugned order is only based on the wrong impression that the petitioner's construction is a church and not a residential house.

5. According to the petitioner, the building plan approval is clearly shows that he has constructed only residential house and not any other commercial construction. The respondent without any basis concluded that the petitioner is using temporary domestic electricity connection for commercial purpose and therefore, prayed for quashing of impugned working sheet dated 29.06.2011.

6. The third respondent filed counter affidavit denying the various averments made in the affidavit. According to the third respondent, the petitioner has obtained temporary connection for construction of the residential house. On the other hand, the petitioner is constructing the Church in the S.No.76/4B, in Musiri Antharapatti Road, West Side, Musiri Town. The Tariff V is applicable for residential house and for other Tariff VI is applicable. The rate applicable for Tariff V is RS.5.30 upto 200 units above 200 units is Rs.5.75. The rate applicable for Tariff VI is Rs.10.50/- per unit or Rs.100 per day per kilo watt whichever is higher. Therefore, the petitioner has caused loss to the Board. Therefore, impugned order is valid and prayed for dismissal of the writ petition.

7. Heard Mrs.M.Seetha, learned counsel for Mr.K.Govindarajan, learned counsel for the petitioner and Mrs.S.Srimathy, learned counsel for Mr.S.M.S.Johnny Basha, learned counsel for the respondents.

8. The petitioner has filed an affidavit that she has completed construction of ground floor and first floor. Ground floor consists of 2 portions and respondents have given 2 service connection for 2 portions of ground floor. The first floor is without electricity supply as on date. The petitioner was compelled to pay on 07.08.2012 a sum of Rs.20,930/- along with EPSC and E.Tax totally Rs.23,837/-. She has also stated that she has not constructed any church and she has no intention of utilizing the building for church purpose. At the time of construction the respondents inspected the property. Taking into consideration the nature of construction they concluded that she is constructing a church and is misusing the domestic service connection for other purpose. Therefore, they passed impugned order calling upon her to pay a sum of Rs.20,910/-. Pending writ petition, the petitioner has paid this amount. Now the petitioner has completed the construction. The respondents have given connection to ground floor. The respondents filed Photographs on the date of inspection, which shows only a Hall is under construction in the property in question. The petitioner has filed photographs after completion of construction. The present photographs shows that the Ground Floor consists two portions and first floor construction is a Hall without any partition.



9. The petitioner also filed an affidavit that she has not construed a church and she has no intention of using the building as church. In view of said undertaking the respondents are directed to inspect the petition premises to find out whether the petitioner is using the premises either for the residential purpose or for the commercial purpose. The petitioner is directed to co-operate with the respondents at the time of inspection. On such inspection, the respondents have to decide whether Tariff V or Tariff VI is applicable to the construction put up by the petitioner and pass orders accordingly. If the construction is used for domestic purpose, the respondents are directed to issue working sheet, for domestic use and refund if any excess amount has been paid by the petitioner. This procedure has to be completed within four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P. (MD) No.1 of 2011 is also closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Assistant Executive Engineer,
Operation and Maintenance
Tamil Nadu Electricity Board, Musiri.
2. The Assistant Superintending Engineer,
Distribution/Vigilance Trichy-20.
3. The Assistant Superintending Engineer,
Operation and Maintenance
Tamil Nadu Electricity Generation and Distribution,
Corporation Limited, Musiri Town.

+1cc to MR.K.GOVINDARAJAN, ADVOCATE IN SR : 8306

Am

SR : 11.03.2015 : 3p/5c

W.P. (MD) No.7660 of 2011
23.02.2015