

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.P.No.29358 of 2015

ORDER:

Heard the learned counsel for the petitioner and Smt. J.Koteswari Devi, learned counsel for respondent Nos.1 and 4. None appears for Sri M.Dorai Raj, learned counsel for 5th respondent, even though the name of the counsel is printed in the cause list.

2. The petitioner is a resident of Ankamanaidu Mitta, Venkatapuram Panchayat, Renigunta Mandal. She constructed an ACC Zinc sheet roofed house in a small extent out of Ac.1.46 cts in S.No.542 of Karakambadi village Accounts, Venkatapuram Panchayat, Renigunta Mandal, Chittoor District after it allegedly alienated in her favour by 5th respondent.

3. According to the petitioner, 5th respondent had handed over pattedar pass book and title deeds to her and had also delivered possession of the land. Petitioner secured electricity connection from the respondent Nos.1 to 4 in April 2015 by a letter dt.16-04-2015 and was enjoying electricity supply through the said connection. This connection was given to the petitioner on the basis of an Enjoyment Certificate issued by Tahsildar, Renigunta Mandal dt.28-05-2012 and house tax receipt issued by the Panchayat Secretary dt.21-01-

2015.

4. However, 5th respondent appears to have filed a complaint with respondent Nos.1 to 4 alleging that she had got title to the property in occupation of the petitioner enclosing certain revenue records. The 5th respondent also appears to have filed a suit O.S.No.159 of 2015 before the Principal Senior Civil Judge, Tirupathi against the petitioner's husband and the said suit is pending.

5. The impugned order has been passed by 4th respondent disconnecting the electricity supply to the petitioner on the complaint made by 5th respondent and after coming to a conclusion that 5th respondent has title to the property in occupation of the petitioner.

6. Learned counsel for the petitioner contends that respondent Nos.1 to 4 have no authority to decide title to the property and having provided a service connection to the petitioner after satisfying themselves that the petitioner is in enjoyment of the subject property, they are not entitled to disconnect the said connection merely on the basis of a complaint made by 5th respondent.

7. Respondent Nos.1 to 4 have filed a counter affidavit taking a plea that the petitioner did not furnish

door number for proper identification of her property, that the petitioner had given a letter issued by the Panchayat Secretary of Venkatapuram Gram Panchayat stating that it has no objection for issuance of electricity and therefore they released electricity connection to the petitioner after obtaining an Indemnity Bond from her. They also admit that the respondent Nos.1 to 4 have collected cost of executing the works necessary for extending an electricity supply to the petitioner and released electricity to the petitioner from 23-04-2015 after installing an electric meter. They also admit that the petitioner never committed default in respect of payment of electricity. They refer to the complaint by 5th respondent and her plea of having title to the property. They also quoted para-5.2.2 of the General Terms and Conditions of Supply notified by APERC vide proceedings Secy/01/2006 dt.06-01-2006. The relevant provisions are also extracted in the counter as under:

"5.2.2:- The requisition shall be made by the owner or occupier of the premises for which supply is required. The application form complete in all respects and accompanied with the undertaking and prescribed fees, charges and security, shall be submitted at the office of the Officer specified in the Designated Officers' Notification. The Company shall verify the application and the enclosed documents at the time of receipt of application, and shall issue a written acknowledgment.

5.2.3:- An applicant who is not the owner of the premises he occupies and intending to avail of supply shall submit an Indemnity Bond drawn by the owner of the premises in favour of the company whereby the

*owner of the premises undertakes to indemnify the company for any loss caused to the company by the applicant (who is the tenant/occupant of the premises) arising out of the release of service to the tenant/occupant. Otherwise he shall be required to pay three times the normal security deposit apart from **providing proof of his being in lawful occupation of the premises.***”

8. A reading of the above provision clearly indicates that even occupier of the premises can seek for supply of electricity from the respondents subject to giving an undertaking and paying the prescribed fee and that if the occupant is not the owner, he should also give an Indemnity Bond.

9. Admittedly such Indemnity Bond has been collected from the petitioner. The lawful possession of the petitioner is certified by both the Panchayat Secretary as well as the Tahsildar. It is not the case of respondent Nos.1 to 4 or 5th respondent that 5th respondent had obtained decree for eviction against the petitioner and that she has succeeded in the same. It is also not the case of the respondents that they are authorized to determine title to the immovable property under any provision of law including the Electricity Act, 2003.

10. Therefore, the impugned proceedings dt.01-09-2015 holding that 5th respondent has got title to the property and that the petitioner has failed to fulfill the conditions imposed under the Electricity Act, 2003 cannot

be sustained.

11. The Writ Petition is allowed accordingly and respondent Nos.1 to 4 are directed to forthwith restore power supply to the property in occupation of the petitioner. No costs.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-12-2015

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