

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12260 of 2016
and
W.M.P.No.10600 of 2016

Heera Howard Simon,
W/o.Howard Nelson Simon
represented by her Power Agent,
M.Irshad Ali,
S/o.Janab Moulana,
No.26, Santhome High Road,
Mylapore, Chennai - 600 004. ... Petitioner

vs.

- 1.The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai - 600 003.
- 2.The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Selaiyur Electricity Distribution Circle,
Selaiyur, Chennai - 73.
- 3.The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Selaiyur Electricity Distribution Circle,
Selaiyur, Chennai - 600 073.
- 4.The Inspector of Police,
S15, Selaiyur Police Station,
Selaiyur, Chennai - 600 073.
- 5.G.Loganathan,
S/o.Govindarajulu
Noothencheri Village,
Saidapet Taluk,
Chennai - 600 072.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order made in Lr.No.A.E/O&M/Selaiyur/S.E.D.C/South/File/L.R. No.114/16 dated 16.03.2016 passed by the third respondent, quash the same, consequently direct the respondents 1 to 3 to restore the meter box and electricity service connection relating to S.C.No.256/722/178 to the petitioner's premises.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.S.K.Raameshwar [R1 to R3]
Mr.R.Rajeswaran,
Special Government Pleader [R4]

O R D E R

By consent, the main Writ Petition itself is taken up for final disposal. Heard Mr.N.Manokaran, learned counsel for the petitioner, Mr.S.K.Raameshwar, learned standing counsel, for respondents 1 to 3 and Mr.R.Rajeswaran, learned Special Government Pleader, for the fourth respondent.

2. In the light of the order this Court proposes to pass, notice to fifth respondent is dispensed with.

3. The petitioner has filed this writ petition challenging the communication sent by the third respondent to the petitioner calling upon the petitioner to produce documents to establish the title over the property where the electricity service connection bearing S.C.No.256-722-178 is to be energized.

4. It is not in dispute that the service connection has been in existence for the past 50 years. Copies of the meter card filed in the typed set of documents prima facie show that it is the existing service connection. The owner of the property is the petitioner herein represented by one Mr.Irshad Ali, who has been appointed as the Power Agent pursuant to the Power of Attorney Deed dated 19.05.1994 registered as Doc.No.386/B4-94 on the file of Sub-Registrar Office, Mylapore. The Power Agent has been authorised to deal with the petitioner's property and to maintain the accounts etc. The petitioner's property is situated at S.No.745/2B3A1, Madambakkam Village, Tambaram Taluk, Kanchipuram District. It appears that there is a theft of the meter box which was installed in the premises and the petitioner's Power Agent has lodged a complaint with the Selaiyur Police Station which has been acknowledged as CSR No.135 of 2016 dated 22.02.2016. Pursuant thereto, the third respondent and his officers have taken action for the purpose of

installation of the new meter box and when the meter box was about to be installed, a complaint is said to have been lodged by the fifth respondent claiming ownership over the property. Based on the complaint, the third respondent has passed the impugned proceedings calling upon the petitioner to establish title.

5. The impugned proceedings do not show as to how the third respondent was prima facie satisfied that the fifth respondent has title over the property. It is not known what is the role played by the Inspector of Police, S15, Selaiyur Police Station. It is settled legal principle that the police authorities are not entitled to interfere in civil matters unless and until a cognizable offence is committed. As on date, there is nothing on record to show that such an offence was committed by any party. Of course, it is the duty of the third respondent to consider objections while granting electricity supply or when a claim is made that the petitioner has fraudulently obtained electricity connection. In the instant case, it is not so. In the case on hand, the service connection has been in existence for the past 50 years and an attempt was made only to install a new meter since the old one is missing. The authorities should be prima facie satisfied that the electricity connection has been fraudulently obtained before issuing communication as that of the impugned proceedings. In the instant case, the impugned proceedings do not reveal the same and it appears that the same has been issued due to the pressure given by the fourth respondent police. In these kind of matters, it is better that the fourth respondent keeps his hands off and not to take any action unless and until an cognizable offence is said to have been committed. Therefore, in the circumstances, the petitioner cannot be summoned to produce documents.

This Writ Petition is allowed. The impugned proceedings of the third respondent dated 16.03.2016 is quashed. It is open to the third respondent to satisfy himself as to on what basis the fifth respondent claims title over the property and thereafter, if he is satisfied, record his reasons in writing, issue notice to the petitioner and consider the claim of the fifth respondent after hearing the objections of the petitioner. However, this order will not be a bar for the third respondent to install the new meter box in question which shall be subject to further proceedings that may be initiated by him. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Chairman,
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800, Anna Salai,
Chennai - 600 003.
- 2.The Assistant Executive Engineer,
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- 4.The Inspector of Police,
S15, Selaiyur Police Station,
Selaiyur, Chennai - 600 073.

+1 cc to Mr.S.K.Ramesh Kumar Advocate sr.20563
+1 cc to Mr.N.Manokaran Advocate sr.20870
+1 cc to Government Pleader sr.20908

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aa21/04/2016

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