

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.12676 OF 2016
AND WMP NOS.11041 AND 11042 OF 2016

S.Murugesan

.. Petitioner

Versus

1.The Superintending Engineer (O&M)
TANGEDGO
Namakkal Electricity Distribution Circle
Namakkal - 637 001.

2.The Executive Engineer (O&M)
TANGEDGO
Tiruchengode Division
Keelaripatti,
Tiruchengode - 637 109.

3.The Assistant Executive Engineer (O&M)
TANGEDGO
North Sub Division
Keelaripatti,
Tiruchengode.

4.The Assistant Engineer (O&M)
TANGEDGO
Kottappalli Section Office
Kottappalli,
Tiruchengode.

5.C.Kailasa Gounder

6.The Chairman
Tamil Nadu Electricity Regulatory Commission
Egmore,
Chennai - 600 008.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the impugned application and revoke the application No.NKL093/2005-06 dated 07.11.2005 for agriculture service connection filed by the 5th respondent Kailasa Gounder.

For Petitioner : Mr.S.Kolandasamy
For Respondents
1 to 4 and 6 : Mr.S.K.Raameshuwar
Standing Counsel for TANGEDGO

O R D E R

Heard Mr.S.Kolandasamy, learned counsel for the petitioner and Mr.S.K.Raameshuwar, learned Standing Counsel, who accepts notice for the respondents 1 to 4 and 6.

2.By consent, the writ petition is taken up for final disposal at the admission stage itself.

3.The petitioner apprehending that the respondent Board would grant electricity service connection to the fifth respondent based on his application, without considering the petitioner's objection, has filed this writ petition.

4.The fifth respondent had filed a writ petition before this Court in W.P.No.34719 of 2014 seeking for a direction to the respondents therein to grant electricity service connection to him for the road side open well situated in S.No.331, Goundipalayam, Thokkavadi Village, Tiruchengode Taluk, Namakkal District. However, in the said writ petition, the present writ petitioner was not made as a party respondent.

5.The learned counsel for the petitioner would submit that even at that point of time, the petitioner had raised an objection, but without impleading the petitioner herein, the fifth respondent filed the writ petition before this Court and the respondent Board took a stand that they are ready to effect electricity service connection, after completing the extension work within a period of sixty days. Recording the said submission made by the Junior Engineer (O&M) TANGEDGO, Tamil Nadu Electricity Board, Koottappalli & Post, Tiruchengode Taluk, Namakkal District, the writ petition in W.P.No.34719 of 2014 was disposed of on 05.03.2015.

6.It appears that when the respondent Board proceeded to grant electricity service connection to the fifth respondent herein, coupled with the direction issued by this Court in the earlier writ petition, there was a stiff objection raised by the petitioner and others and police help had to be sought for. In the light of the above facts, the objection raised by the petitioner should not be ignored and he, claims to be the co-owner of the property.

7. Though on earlier occasion the respondent Board had stated before this Court that they are ready to effect service connection after completion of the extension work within a period of sixty days, the objection raised by the petitioner has become a stumbling block for the respondent Board to take further action in the matter.

8. In the light of the above, the respondent Board, should consider the objection raised by the petitioner and examine as to whether the objection is tenable and if it is not tenable, then they can always proceed to extend electricity service connection to the fifth respondent in accordance with law. However, when the objection is pending, without considering the same, action should not be taken.

9. Therefore, there will be a direction to the fourth respondent to consider the petitioner's objection, after issuing notice to the petitioner and the fifth respondent and examine the tenability and the sustainability of such objection and thereafter, proceed to pass orders, on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the allegations made by the writ petitioner, as against the fifth respondent, nor ventured in the factual disputes raised by the petitioner. These aspects of the matter shall be taken note of by the fourth respondent, while considering the objection raised by the petitioner.

10. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

- 1.The Superintending Engineer (O&M)
TANGEDGO, Namakkal Electricity Distribution Circle
Namakkal - 637 001.
- 2.The Executive Engineer (O&M)
TANGEDGO, Tiruchengode Division
Keelaripatti, Tiruchengode - 637 109.
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TANGEDGO, Kottappalli Section Office
Kottappalli, Tiruchengode.
- 5.The Chairman
Tamil Nadu Electricity Regulatory Commission
Egmore, Chennai - 600 008.

+1cc to Mr.S. Kolandasamy, Advocate, S.R.No.21363
+1cc to Mr.S.K. Rameshuwar, Advocate, S.R.No.21454

MSM(CO)
EU(25/04/2016)

W.P.NO.12676 OF 2016

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