

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10591 OF 2015

Samiyappa Gounder

...Petitioner

-Vs-

1.The Superintending Engineer,  
TANGEDCO, Tiruppur,  
Tiruppur District.

2.The Assistant Engineer,  
TANGEDCO, Uthukuli,  
Avinashi Taluk,  
Tiruppur District.

3.Chennimalai Gounder

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records pertaining to the proceedings of the second respondent in Ka.No.U.Mi.Po/Ki/Ukuli/Locut/A.80/14, dated 20.11.2014 and quash the same as illegal, incompetent and consequently direct the second respondent to give electricity connection to the petitioner's dwelling house at 1/36, Chinnegounden Palayam, Punjai Thalavaipuram, Perundurai, Erode District.

For Petitioner : Mr.M.Guruprasad

For Respondents 1&2 : Mr.S.K.Rameshuwar

For Respondent 3 : Mr.N.Manokaran

ORDER

Petitioner has filed this Writ Petition, for issuance of a writ of certiorari, to quash the communication sent by the second respondent, dated 20.11.2014. The petitioner would term the communication as an order and that is impugned in this Writ Petition.

2. On perusal of the impugned communication, it is seen that is not an order, but it is only a direction or a notice, calling upon the petitioner to comply with certain aspects within a period of seven days. It is an unfortunate dispute between two brothers, who are both senior citizens,

having crossed the age of 70 years. However, the dispute is very narrow, which is with regard to right to place electric poles on a 10 feet cart track.

3. The third respondent, in the counter affidavit, has admitted that it is a cart track, but would state that because of the poles being erected, his right of usage of cart track would be affected.

4. It is to be noted that a suit has been filed by the third respondent in O.S.No.241 of 2014 on the file of District Munsif Court, Avinashi, in which, the writ petitioner is the first defendant; the petitioner's daughter is the second defendant and the Electricity Board and their officials are defendants 3 to 5. The suit is one for permanent injunction. However, it appears that there is no interim order as on date.

5. Given the above facts, it would not be feasible of deciding the disputed question as to whether the third respondent's right to enjoy the cart track would be affected or any other issue in the writ proceedings, more particularly, when Civil Court proceedings are pending. In any event, as rightly pointed out by the learned Standing Counsel for the respondent Board, the entire issue is premature and till-date, the respondent Board has not rejected the petitioner's application nor has it stated that the petitioner's application is not feasible of consideration. Further, it is to be pointed out that as long as there is no prohibitory order, restraining the respondent Board from proceeding to consider the application of the petitioner, this Court cannot shirk its responsibility and allow the parties to approach various fora, for a simple matter. Therefore, the second respondent is directed to take note of the objections given by the third respondent, inspect the site in question after notice to the petitioner and the third respondent, and if objections are not tenable, then proceed in accordance with the regulations, and, if the same are on the contrary, he may pass a speaking order. If the petitioner or the third respondent is aggrieved by the said order, it is open for them to challenge the same in the manner known to law. The above direction shall be complied with by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.

6. Writ Petition is disposed of accordingly. No costs.  
dixit

Sd/-  
Asst.Registrar

/true copy/

To

1.The Superintending Engineer,  
TANGEDCO, Tiruppur,  
Tiruppur District.

2.The Assistant Engineer,  
TANGEDCO, Uthukuli,  
Avinashi Taluk,  
Tiruppur District.

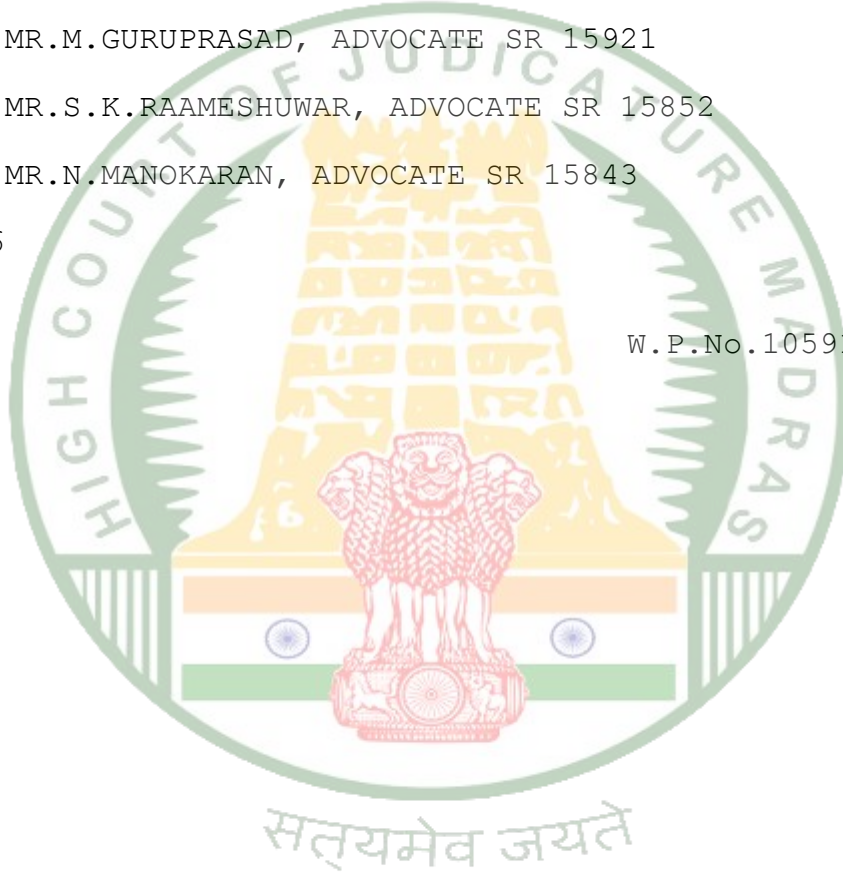
+ 1 CC TO MR.M.GURUPRASAD, ADVOCATE SR 15921

+ 1 CC TO MR.S.K.RAAMESHUWAR, ADVOCATE SR 15852

+ 1 CC TO MR.N.MANOKARAN, ADVOCATE SR 15843

KR/18/3/16

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