

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

The Hon'ble Mr.Justice N.Kirubakaran

Writ Petition Nos.15145 to 15148 of 2016

1. V.Chellamuthu ... Petitioner in W.P.No.15145/2016
2. P.Dharmaraj ... Petitioner in W.P.No.15146/2016
3. S.Muthusamy ... Petitioner in W.P.No.15147/2016
4. P.Athishya Mani ... Petitioner in W.P.No.15148/2016

Vs.

1. The Superintendent Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
CEDC-North,
Tatabad, Coimbatore - 641 012.
 2. The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
CEDC-South,
Neelaambur,
Coimbatore District- 641 406.
 3. V.S.Raja Rajeswari,
 4. S.Jayamanju
- ... Respondents in all W.Ps.

Prayers in all W.Ps.

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the order in Ka.No.UMIPO/E& PE/Neelaambur/CO Pudhiya Minenaipu/A.No.052, 053, 055 and 054/2016, respectively, dated 29.03.2016, on the file of the second respondent herein, and to quash the same, and consequently, to direct the second respondent to provide electricity service connection to the petitioners' residential houses at S.F.No.789/4, bearing Door No.1/490-Y,V, Y-1 and X, at Kallukuthu Neelambur Village in Sulur Taluk of Coimbatore District.

For Petitioners : Mr.N.Ponraj
in all WPs

For Respondents 1 & 2: Mr.S.K.Rameshuwar
in all WPs Standing Counsel for TNEB

For Respondents 3 and 4 : Mr.A.Thiagarajan
in all WPs

COMMON O R D E R

Heard Mr.N.Ponraj, the learned counsel appearing for petitioners, and Mr.S.K.Rameshuwar, learned Standing Counsel (for TNEB), appearing for first and second respondents, and Mr.A.Thiagarajan, the learned counsel appearing for third and fourth respondents.

2. These Writ petitions have been filed by the petitioners, praying for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the second respondent, dated 29.03.2016, and consequently, to direct the second respondent to provide electricity service connection to the petitioners' residential houses, situate at Kallukuthu Neelambur Village in Sulur Taluk of Coimbatore District.

3. Since the relief sought for, in these Writ Petitions are one and the same, they have been taken up together, and disposed of by this common order.

4. The petitioners are the respective owners of the plots, bearing Door No.1/490-Y, V, Y-1 and X, at Kallukuthu Neelambur Village in Sulur Taluk of Coimbatore District. Each of the petitioner constructed houses for residential purpose. They made separate applications for provision of electricity service connection to their premises for domestic purpose. The said applications were rejected by the second respondent/Assistant Engineer, on the ground that objection has been raised by the neighbours of the petitioners, viz., i)V.S.Raja Rajeswari/third respondent, ii) S.Jayamanju/fourth respondent, iii) Sivasamy, iv) Vijayakumar, and v) Sampath, with regard to the use of the pathway, comprised in S.No.789/4. Challenging the said order, the petitioners are before this Court.

5. After hearing the learned counsel appearing for the parties, this Court, in order to ascertain the correct position as to whether the erection of electric poll would affect the easementary rights of the third and fourth respondents and other neighbours from using the pathway, appointed two Advocate

Commissioners to inspect the property, and to measure the length and breadth of the pathway, and whether the Electric Poll, which is already in existence, is in the middle of the road, or in the margin of the pathway, and directed to file a report furnishing the details.

6. As per the direction issued by this Court, the learned Advocate Commissioners filed a report along with rough sketch, mentioning the length of the pathway as '594 feet', breadth of the pathway as '20 feet', and it is stated that the Electric Poll already erected, is only in the margin of the road, and it would in no way obstruct the movement of the vehicles. Since the petitioners' properties are located inside, they have to pass through the subject pathway to reach their property.

7. Though third and fourth respondents object to the provision of electricity service connection by erecting Electric Polls, as the matter is sub judiced before the Civil Court, it is seen that the neighbours, viz., i) Sivasamy, ii) Vijayakumar, and iii) Sampath have already got electricity service connection through the pathway, this Court is not going to adjudicate the rights of the parties with regard to the pathway. Electricity, being the essential amenity of life, has to be provided to the petitioners, as it impossible for any resident to live without the use of the electricity even for five minutes. Having constructed the houses, the petitioners cannot be deprived of their rights to reside their, as the same would amount to violation of Article 21 of the Constitution of India.

8. Further, as already noted in the preceding para, the petitioners neighbours have got electricity service connection to their premises, through the underground cable, instead of aerial connection. If the connection is given by way of laying cables underneath the pathway, it will not cause any obstruction to the use of the pathway, nor, would violate the alleged easementary rights of the respondents 3 and 4.

9. In the light of the above, the Writ Petitions are allowed, the impugned orders passed by the second respondent are quashed, and the first and second respondents are directed to give electricity service connection to the petitioners residential houses, by laying cables underneath the pathway within a period of two weeks from the date of receipt of a copy of this order. The parties are directed to cooperate with the Electricity Board while laying cables. In case of any necessity for police protection, the Electricity Board is at liberty to take the Police aid, for which purpose, the concerned jurisdictional Police is directed to take steps.

10. It is made clear that this Court is not adjudicating any issue with regard to the easementary rights of the parties in using the pathway.

11. In the result, the Writ Petition is allowed on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Superintendent Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
CEDC-North,
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2. The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
CEDC-South,
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1 cc to M/s.A.Thiyagarajan, Advocate, sr.49419

1 cc to M/s.N.Ponraj, Advocate, sr.49686

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