

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.1584 of 2016

W.M.P.No.1350 of 2016

M.Rajendran

[PETITIONER]

Vs

- 1 The Chairman
Tamil Nadu Generation and Distribution Corporation
Anna Salai, Chennai-600 002.
- 2 The Executive Engineer Distribution/ South
Tamil Nadu Generation
and Distribution Corporation
Erode Electricity Distribution Circle
949 EVN Road, Erode-638 009.
- 3 The Assistant Engineer
Operation and Maintenance
Tamil Nadu Generation and Distribution Corporation
Erode Electricity Distribution Circle
Tamaraipalayam, Erode District.
- 4 The Village Administrative Officer
81 Kolathupalayam 'A' Village
Erode Taluk, Erode District.

5 A.P.Paramasivam

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order made in Lr. No.EE-D-S-E.Tech. Ast.1/526/ No.9742/A No.420/15-16 dated 13.11.2015 passed by the 2nd respondent quash the same and consequently direct the respondent 2 to 4 to receive the relevant Revenue Records process the petitioner application for E.B. Connection registered in No.940/ 1990-91 dated 28.1.1991 relating to the petitioner well in R.S. No.235/3 Kolathupalayam 'A' Village, Erode District after ignoring the objection raised by the 5th respondent.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.K.Rameshuwar- R1 to R3
Standing Counsel

Mr.R.Rajeswaran -R4
Spl.Govt. Pleader

O R D E R

Heard Mr.N.Manokaran, learned Counsel appearing for the petitioner, Mr.S.K.Rameshuwar, learned Standing Counsel accepting notice for the respondents 1 to 3 and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice for the fourth respondent and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition seeking for issuance of a writ of certiorarified mandamus to quash the proceedings of the second respondent dated 13.11.2015 and to direct the respondents 2 to 4 to receive the relevant Revenue Records, process the petitioner's Application for Agricultural Electricity Service Connection for his well in R.S. No.235/3 Kolathupalayam 'A' Village, Erode District, without taking note of the objections raised by the 5th respondent.

3.On a perusal of the impugned proceedings, it is seen that there is no adverse remark made by the Executive Engineer on the petitioner's Application and the Executive Engineer has only directed the petitioner to produce the relevant records. However, the petitioner has an apprehension that his Application would be rejected, since the fifth respondent has raised an objection based on the decree passed by the District Munsif cum Judicial Magistrate, Kodumudi in O.S.No.208 of 2014 dated 06.12.2014.

4.A copy of the decree has been filed in the typed set of papers. On a perusal of the said decree, it is seen that a final decree has been passed based on the Settlement Memo before the Lok Adalat and the Settlement Memo is said to have been signed between the plaintiff and the defendants. The plaintiff in the Suit is the fifth respondent herein. The petitioner herein is not a defendant in the said Suit. That apart, the authorities of the Electricity Board are also not the defendants in the Suit. The decree was by virtue of the settlement between the plaintiff and the defendants. In fact, the petitioner has given a detailed representation to the District Collector which has been forwarded to the Revenue Divisional Officer, Erode.

5. In the facts and circumstances of the case, the proper procedure to be followed by the petitioner is to approach the second respondent by way of a representation, bring to his notice of the above facts and place for his consideration the documents which the petitioner has submitted along with his representation to the District collector on 14.12.2015. On receipt of such representation, the second respondent should take a decision in the matter, examine the facts and also consider as to how the Civil Court decree which has been obtained by the fifth respondent based on a Settlement Memo would have an effect on the petitioner's Application. Before, considering all these factors, the second respondent cannot state that the petitioner's Application for service connection stands lapsed.

6. In the light of the above, the Writ Petition is disposed of by directing the petitioner to submit a representation to the second respondent, enclosing the copies of all the documents and the second respondent on receipt of the representation, decide the same on merits and in accordance with law, after notice to all concerned. The above direction shall be complied with by the second respondent within a period of three weeks from the date of receipt of a copy of this order. Till final orders are passed, it is deemed that the petitioner's Application is still valid and should not be treated as a lapsed Application. No costs. Consequently, connected Miscellaneous Petition is closed.
rpa

s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

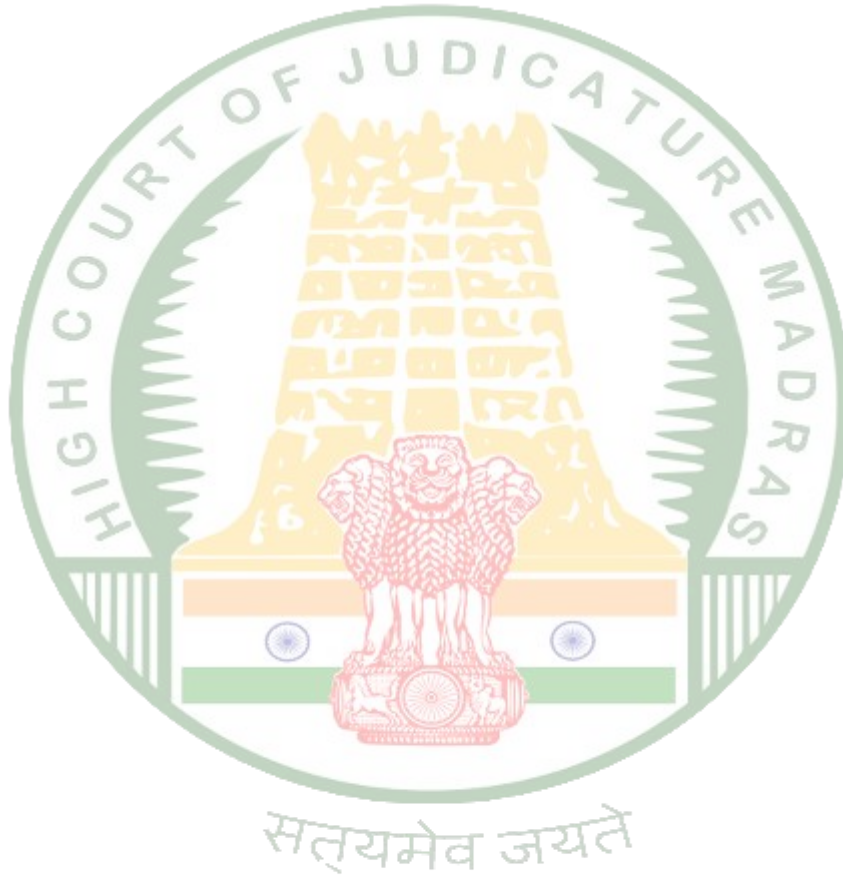
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+ 1 cc to Mr.N.Manoharan, Advocate SR 2908

tej(co)
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