

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.34866 of 2014

K.Venkatachalam

...Petitioner

Vs.

1. The Assistant Engineer
Tamilnadu Generation of Electricity
and Distribution Corporation Ltd
Gobi Electricity Distribution Circle
Pudupalayam-638 478
Erode District

2.The Executive Officer
A/m. Muthukumaraswamy Thirukoil
Vellapalayam village,
Gobichettipalayam Taluk,
Erode District

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus Calling for the records pertaining to the impugned order dated 11.11.2014 made in Lr.No.A.E/O & M.P. Palayam/File Separate/138/14 passed by the 1st respondent quash the same and consequently direct the 1st respondent to grant electricity service connection to the petitioners house in Pathiyan Thottam comprised in S.No.59/1 P.Vellalapalayam Village Gobichettipalayam Taluk Erode District without insisting for no objection certificate from the 2nd respondent Calling for the records of the 2nd respondent.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.K.Rameshuwar for R1

Mrs.Rita Chandrasekar,
Spl.G.P, HR&CE for R2

O R D E R

Heard learned counsel for the petitioner and the learned counsel for the respondents.

2. Petitioner has sought for issuance of writ of Certiorari to quash the proceedings issued by the 1st respondent calling upon the petitioner to obtain a no objection certificate from the 2nd respondent temple to enable the 1st respondent to process the application for electricity service connection.

3. The petitioner claims to be a lessee in possession of the land owned by the 2nd respondent temple and he further claims that he is cultivating the land for nearly five decades. It is not in dispute that the respondent temple took action for eviction of the petitioner and this necessitated the petitioner to approach the Civil Court and he has filed a suit in O.S.No.229/2010 on the file of the District Munsif Court, Gobichettipalayam for decree of permanent injunction not to evict the petitioner without following due process of law. The petitioner has been able to obtain a order of temporary injunction till the disposal of the suit.

4. Learned counsel for the 2nd respondent submits that the pleadings are complete and the matter is listed for trial. It appears that on account of pendency of other suits and revisions before this Court, the trial court is unable to dispose of the suit in O.S.No.229/2010. In the interregnum the petitioner appears to have put up a small construction with a temporary roof and now seeks for electricity service connection. The photographs produced before this Court prima facie shows that cultivation has been going on and there is a small construction with a steel roof. It is not known as to whether, the electricity service connection sought for is for the said premises. In any event, since there is a dispute between the parties and the same is before the Civil Court, the 1st respondent cannot insist upon a no objection certificate being issued to enable the petitioner to obtain service connection. Therefore, since the possession of the petitioner over the land in question is litigious the question of insisting no objection certificate may not arise. However, to safeguard the interest of the board the board may obtain an indemnity bond as provided under the supply code and give electricity connection. But, however before doing so, the 1st respondent should inspect the property in question in the presence of the petitioner as well as the 2nd respondent and satisfy himself as to the premises for which electricity service connection is applied for. After which the 1st respondent shall process the application within a period of four weeks in accordance with law. Considering the fact that the suit is of the year 2010 and it is only an injunction suit the trial court shall endeavor to dispose of the suit as

expeditiously possible preferably within a period of four months from the date of receipt of a copy of this order if there is no other legal impediment.

Accordingly, writ petition is disposed of. No costs.

-s/d-

Assistant Registrar(AS)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Engineer
Tamilnadu Generation of Electricity
and Distribution Corporation Ltd
Gobi Electricity Distribution Circle
Pudupalayam-638 478,Erode District

2.The Executive Officer
A/m. Muthukumaraswamy Thirukoil
Vellapalayam village,
Gobichettipalayam Taluk,
Erode District

+ 1 cc to Mr.M.Manokaran, Advocate, SR 22936

+ 1 cc to Mr.S.K.Raameshuwar, Advocate, SR 22978

+ 1 cc to Spl.Govt.Pleader, High Court, Madras SR 23146

ks(co)
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