

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2012

CORAM

THE HON'BLE Mr. JUSTICE K.VENKATARAMAN

W.P.No.29315 of 2011

and M.P.No.1 of 2011

R.Raja

... Petitioner

Vs.

1. The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai.
 2. The Executive Engineer (O&M),
Tamilnadu Electricity Board,
Maraimalai Nagar, Kancheepuram District.
 3. The Assistant Engineer (O&M),
Tamilnadu Electricity Board, Vandalur, Chennai-48.
 4. M/s.Kala Fashion Pvt. Ltd.,
Rep. by its Director L.Sivakumar
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus, calling for the records pertaining to the impugned notice dated 02.11.2011 bearing Letter No.:J.E.-O.M/Vanda/KO.SPL/A./126/11 in respect of electricity connection No.571-015-674 to the premises bearing Door No.2/512, GST Road, Vandalur, Chennai - 48 on the file of the 3rd respondent and quash the same and consequently forbearing the respondents 1 to 3 their men, agents, subordinates and persons claiming through them from disconnecting the electricity supply of the petitioner's premises bearing Door No.2/512, GST Road, Vandalur, Chennai - 48.

For Petitioner	: Mr.Dr.C.Ravichandran
For Respondents	: Mr.P.Gunaraj (for R1 to R3)
	No appearance (for R4)

O R D E R

The present writ petition is laid challenging the impugned order dated 02.11.2011 of the 3rd respondent in and by which the petitioner was directed to produce documents to show that the property belongs to him and further threatened that the disconnection will be made if such documents are not forthwith coming from the petitioner.

2. The case of the petitioner in nut shell are stated hereunder.

The petitioner is running an Automobile Service Centre under the name and style Gojan Engineers Private Ltd., at No.2/512, GST Road, Vandalur, Chennai. The property originally belonged to one Jayaraman and he has handed over the same to the District Collector, Kancheepuram for the purpose of giving the same to the leprosy people. The District Collector, Kancheepuram, accordingly granted the same in favour of the leprosy people and they have been in possession and enjoyment of the same. On 18.05.1996, the Handicapped and Leprosy Welfare Association, Malayadi Nagar, Vandalur has passed a resolution to hand over the property to the petitioner on receipt of the compensation. In pursuant to the same, the petitioner was put in possession of the property and he has started the Automobile Service Centre in the said place. He has also obtained the Electricity Service Connection for the said property. While so, the 4th respondent, alleging that he has got a right over the property seems to have approached the respondent Electricity Board for disconnection of the service connection. The petitioner now challenges the order of the 3rd respondent directing him to produce the documents to establish that he is the owner of the property and further threatening him that in case of failure, disconnection of electricity service will be made.

3. Counter affidavit has been filed on behalf of the 3rd respondent stating that in view of a letter written by one M/s.Kala Fashions Pvt. Ltd., the 4th respondent herein, the petitioner was directed to produce the documents regarding proof of ownership relating to the site in question and there is no infirmity in the same and hence the writ petition is liable to be dismissed.

4. The counsel appearing for the petitioner was directed to serve the 4th respondent privately and the private notice sent to the

4th respondent has returned stating "No Such Addressee" and therefore, the name of the 4th respondent was shown in the cause list.

5. On the basis of the pleadings referred to above, I have heard the learned counsel for the petitioner and the learned counsel for the Tamilnadu Electricity Board, who represents respondents 1 to 3.

6. The indisputable facts are that the petitioner has obtained electricity service connection from the 3rd respondent and is enjoying the same for the past several years. On the basis of the complaint given by M/s. Kala Fashions Pvt. Ltd., Vandalur, the 4th respondent herein, the 3rd respondent seems to have directed the petitioner to produce the documents to establish that the property in question for which the electricity service connection was granted, belongs to the petitioner.

7. In the counter itself, it is stated that there is no provision under the Act to clarify the doubt about the ownership. Paragraph no.4 of the counter affidavit is thus usefully extracted hereunder.

"4. I further state that even though there is no specific provision under the Act, it is the right of the Board officials to clarify the doubts if any arose with regard to the ownership of the said land in question so as to justify the doubts with regard to the ownership so as to come to a correct conclusion whether the service connection has to be disconnected or not."

8. If any objection has been received by the 3rd respondent from the 4th respondent, the 3rd respondent could have directed the 4th respondent to produce the documents to the effect that it has got the right over the property in question. Without requesting the 4th respondent to produce the documents, the 3rd respondent cannot request the petitioner to show that he is the owner of the property. Rule 27 (4) of the Tamilnadu Electricity Distribution Code of 2004 clearly states that electricity service connection could be given to person who are in lawful occupation. The petitioner having established that he is in possession of the property, has obtained electricity service connection. It cannot be disconnected at the request made by the 4th respondent. Even assuming that the petitioner is not the owner of the property, since he is in possession of the property, he is entitled to electricity service connection as per the Code referred to above. In view of the same, the impugned order of the 3rd

respondent is liable to be set aside and accordingly, set aside. The writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To

1. The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai.
2. The Executive Engineer (O&M),
Tamilnadu Electricity Board,
Maraimalai Nagar, Kancheepuram District.
3. The Assistant Engineer (O&M),
Tamilnadu Electricity Board, Vandalur, Chennai-48.

+1cc to Mr.C.Ravichandran, Advocate, Sr.No.66676

+1cc to Mr.P.Gunaraj, Advocate, Sr.No.66389

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BS (CO)
MS:19/11/2012

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