

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28348 of 2015 and

M.P.No.1 of 2015

S.Balakrishnan

.. Petitioner

Vs.

1.The Executive Engineer,
O/o. Executive Engineer,
Tamil Nadu Electricity Board,
Tondiarpet, CEDC North,
Chennai.

2.The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Manali, Chennai.

3.M/s.SSS Constructions,
rep. by its Proprietor Mr.Nithish
No.8, Sarojini Avenue 1st Street,
Chennai - 600 051.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent herein vide his proceedings Ka.No.Asst. Eng./O&M/Manali/Ko.Complaint/No.78 dated 22.06.2015, quash the same and issue consequential directions to the respondents 1 and 2 herein to remove the pole laid in front of my compound wall.

For Petitioner

.. Mr.D.Baskar

For Respondents 1 & 2

.. Mr.P.R.Dilipkumar

ORDER

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

2.The petitioner has filed this writ petition to forbear the respondents 1 and 2 to quash the order dated 22.06.2015 passed by the 2nd respondent and to direct the respondents 1 and 2 to remove the poles which have been erected near the compound wall of the petitioner's house. From the photographs produced before this Court, it is seen that the electric pole where the transformer is proposed to erect is dangerously closed to the apartment complex constructed by the 3rd respondent. In fact, if the lines are drawn, person from the second floor balcony will be able to touch the electric lines. Therefore, the electric lines cannot be permitted to be drawn within such a close distance that too, in violation of Clause 29(12) of the Tamil Nadu Electricity Distribution Code, 2004. It is not known as to whether the construction made by the 3rd respondent is in accordance with the sanctioned plan. Therefore, the respondents 1 and 2 are duty bound to first verify as to whether the building is an authorised construction and it is only thereafter, the permission should be given for erection of transformer to provide electricity supply to an apartment complex constructed by the 3rd respondent adjoining the petitioner's independent house. However, these aspects have mis the attendance of the respondents 1 and 2. Time and again, the Hon'ble First Bench of this Court pointed out that unless and until a Promotor produces a Completion Certificate from the Planning Authority stating that the building is in strict adherence to the approved plan, electricity supply should not be granted.

3.In fact, several orders have been passed by the Hon'ble First Bench to disconnect the electricity supply effect to buildings which have been put up in violation of the sanctioned plan or buildings where there are unauthorised construction. The views expressed by this Court are only prima facie opinion and it is the bounden duty of the Planning Authorities to verify as to whether the flats constructed by the 3rd respondent is as per the Sanctioned Plan. Since the Corporation of Chennai, within whose jurisdiction the apartment complex is situated, has not been made as a party to the writ petition, no specific direction can be granted in this writ petition to the Corporation authorities. However, the respondents 1 and 2 should ensure and verify the facts before proceeding the matter.

4.In the light of the above, the Writ Petition is allowed and the impugned order is quashed and the respondents 1 and 2 are directed to ascertain from the competent authority of the

Corporation of Chennai as to whether the building put up by the 3rd respondent is in accordance with the Sanctioned Plan and after notice to the petitioner and the 3rd respondent, the 1st respondent should decide the matter in accordance with law. Till such a decision is taken, the transformer shall not be erected and electricity supply should not be given. No costs. Consequently, connected Miscellaneous Petition is closed.

Sgl

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Executive Engineer,
O/o. Executive Engineer,
Tamil Nadu Electricity Board,
Tondiarpet, CEDC North,
Chennai.

2.The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Manali, Chennai.

3.M/s.SSS Constructions,
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No.8, Sarojini Avenue 1st Street,
Chennai - 600 051.

+ 1 cc to M/s.R.Thamarai Selvan Advocate Sr 5276

+ 1 cc to Mr.P.R.Dilipkumar, Advocate Sr 5300

KR/29/1/16

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