

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 344 of 2015

&

M.P. No. 1 of 2015

S. Padmanabhan

..Petitioner

Vs.

1. Superintending Engineer,
Tamil Nadu Electricity Board,
Olimugamadupet,
Kancheepuram.
2. Executive Engineer (North),
Tamil Nadu Electricity Board,
Railway Road, Kancheepuram.
3. Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Railway Road, Kancheepuram.
4. Junior Engineer
(Operation & Maintenance)
Town - III,
Tamil Nadu Electricity Board,
Railway Road, Kancheepuram.

5. D. Purusothaman

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing respondents 1 to 4 to provide permanent electricity service connection to the 1st and 2nd floors of the petitioner residence at No.30/31.A.Okkapiranthan Kulam Street, Big Kancheepuram.

For Petitioner :: Mr.C.L.Lalji

For Respondents:: Mr.S.K. Raameshuwar
for R1 to R4
Mr.P.Dineshkumar for R5

O R D E R

The petitioner is the owner of the property bearing No. 30/31.A. Okka Piranthan Kulam Street, Big Kancheepuram. The said property was obtained by the petitioner from his father by virtue of a registered partition deed dated 07.09.2009 executed between him and his father. The property, measuring an extent of 1273.5 sq.ft was derived by the petitioner's father by virtue of a registered partition deed dated 06.09.1995, in which, from entrance to the rear end, the 1st and 3rd portions were allotted to the petitioner's father while the 2nd and 4th portions were allotted to the petitioner's paternal uncle, the 5th respondent herein. A common passage measuring north to south 5 feet and east to west 110 feet forms part of the property of each one of them and it is in the respective enjoyment of the each sharer. With regard to the said passage, there is a civil dispute pending between the petitioner and the 5th respondent in O.S. No. 34 of 2012 on the file of District Munsif Court, Kanchipuram. The petitioner constructed his own house in the said place, consisting of Ground Floor, 1st Floor and 2nd Floor. Initially, the petitioner obtained electricity service connection for Ground Floor alone, on 19.09.2011 and thereafter, when he submitted an application dated 07.02.2012 to respondents 1 to 4 requesting to provide electricity service connection for the 1st and 2nd floors, on the objection raised by the 5th respondent that there is a civil dispute pending between them and that the construction made by the petitioner is unauthorised and is in violation of the orders granted by the Civil Court, the service connection sought by the petitioner was not provided. Subsequently, the petitioner submitted a letter on 07.03.2014 to the 4th respondent to provide a separate new E.B. Connection, for exclusive use in the 1st and 2nd floors, the same was rejected. Thereafter, the petitioner applied for separate electricity connections for 1st and 2nd floors and an inspection was also conducted by the E.B. Officials on 10.03.2014. But, thereafter, there was no action taken. Hence, the petitioner submitted a representation dated 05.04.2014 to respondents 1 to 4 to consider his application dated 07.02.2012 and to provide electricity service connection to the 1st and 2nd floors of his house. However, no orders were passed by respondents 1 to 4, which compelled the petitioner to approach this Court.

2. Heard the learned counsel on either side.

3. It is seen from the records that there is a civil dispute pending between the petitioner and the 5th respondent with regard to the pathway in O.S. No. 34 of 2012 on the file of District Munsif Court, Kanchipuram. The order passed by the Civil Court would make it very clear that it is only with regard to the pathway and all the parties have to maintain the pathway with sufficient space for free ingress and egress till the

disposal of the suit. Admittedly, the petitioner is the owner of the property and therefore, there cannot be any prohibition for the petitioner to put up any additional construction as per law and to obtain electricity service connections. Citing the pendency of Civil Court proceedings, the 5th respondent cannot object and based on the said objection, respondents 1 to 4 cannot refuse to grant electricity service connection sought by the petitioner. The objection raised by the 5th respondent is unsustainable.

4. Therefore, the 3rd and 4th respondents are directed to provide electricity service connection to the 1st and 2nd floor of the petitioner's house, as per his application dated 07.02.2012, within a period of three weeks from the date of receipt of a copy of this order. But, at the same time, it is made clear that the petitioner cannot obstruct the pathway from being used by the 5th respondent as per the Civil Court's order. It is further made clear that the grant of electricity service connection, in no way, would prejudice the rights of either parties in the pending proceedings before the Civil Court and the same will have to be decided by the Civil Court in the proceedings pending before it. The writ petition is disposed of accordingly. No costs. Connected M.P. is closed.

nv

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Superintending Engineer,
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Kancheepuram.
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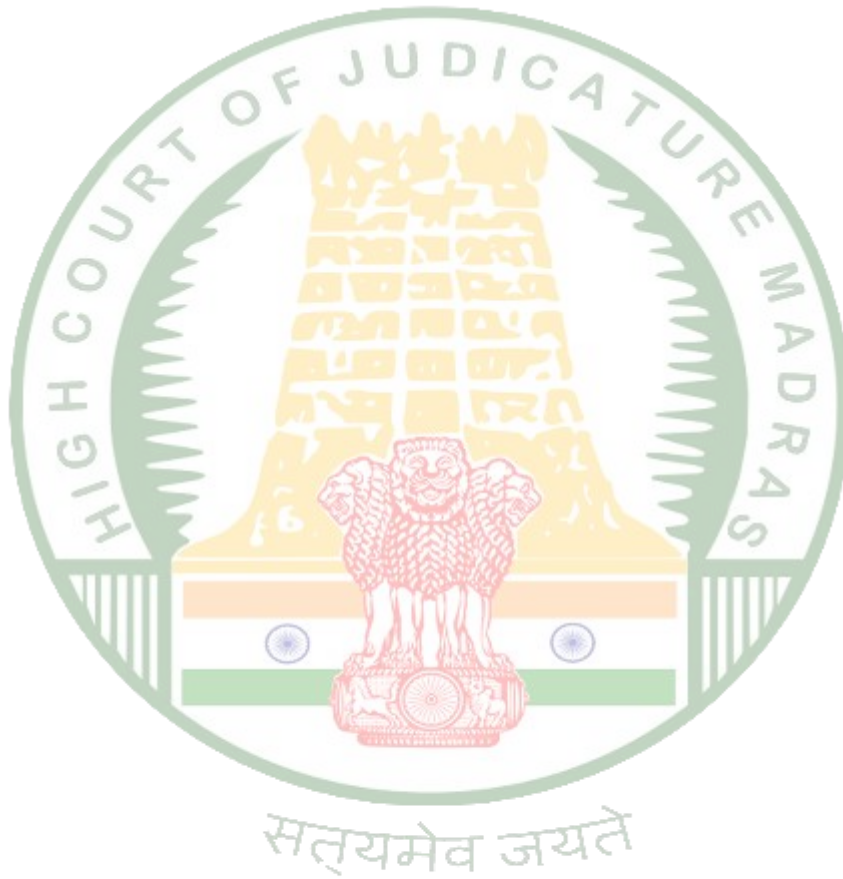
+ 1 cc to Mr.C.L.Lalji, Advocate Sr 33970

+ 1 cc to Mr.S.K.Raameshuwar, Advocate Sr 34049

+ 1 cc to M/s.D.Ravichander, Advocate Sr 34216

KR/13/7/16

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