

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.03.2016

Coram

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

Writ Petition No.3780 of 2015

&

M.P.No.1 of 2015

1.Rosy

2.Senthil Kumar

3.Saravanan

Petitioners are represented by their  
power agent and representative

Mr.V.Prabhu

...Petitioners

Vs.

1. The Assistant Executive Engineer  
O&M Velachery East  
TNEB/CEDC/South  
Chennai-42

2.V.G.P.Housing (P) Ltd  
registered partnership firm  
represented by its Director  
V.G.Selvaraj

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order passed in Ka.No., U.Se.Po./E and Pa/Velacherry/Kopu thani/No.530/14/15 dated 14.01.2015 on the file of the 1<sup>st</sup> respondent and quash the same and direct the 1<sup>st</sup> respondent to provide the electricity service connection on the basis of their application dated 13.01.2015 to the petitioners premises at Survey No.283/1 in Velacherry village to an extent of 22 cents.

For Petitioner : Mr.R.Balachandran

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

Mr.M.Gnanasekar for R2

O R D E R

Petitioner is aggrieved by the impugned proceedings passed by the 1<sup>st</sup> respondent refusing to consider his application for grant of electricity service connection in respect of the property in survey No.283/1 in Velacherry village measuring an extent of 22 cents. The only reason assigned in the impugned proceedings is by stating that the 2<sup>nd</sup> respondent company has given an objection that a suit is pending before the Civil Court and therefore the request made by the petitioner is not feasible for consideration. The impugned order is a one page order rather a four line order. This is sought to be sustained by the 1<sup>st</sup> respondent by filing a four page counter. In the counter affidavit several averments have been made, which do not find place in the impugned order. It is a settled legal proposition that the impugned order has to be sustained on the reasons assigned therein and cannot be substituted by fresh reasons in the form of a counter affidavit. Applying the said legal principle to the facts of the present case, it has to be held that the impugned order is unsustainable.

2. Learned counsel for the petitioner pointed out that the averments in paragraph 4 of the counter affidavit are factually incorrect and they do not pertain to the property in question. However, this Court cannot adjudicate these issue at this juncture, since these facts were never informed by the 1<sup>st</sup> respondent to the petitioner before passing the impugned order. This is good and sufficient reason to quash the proceeding and accordingly writ petition is allowed, impugned order is set aside and the matter is remanded to the 1<sup>st</sup> respondent for fresh consideration, who shall issue notice to the petitioner and the 2<sup>nd</sup> respondent inform them of the entire details afford them an opportunity to place records and submit objections and thereafter, after conducting an enquiry pass an reasoned order on merits and in accordance with law. The above direction shall be complied within a period of eight weeks from the date of receipt of a copy of this order. No Costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

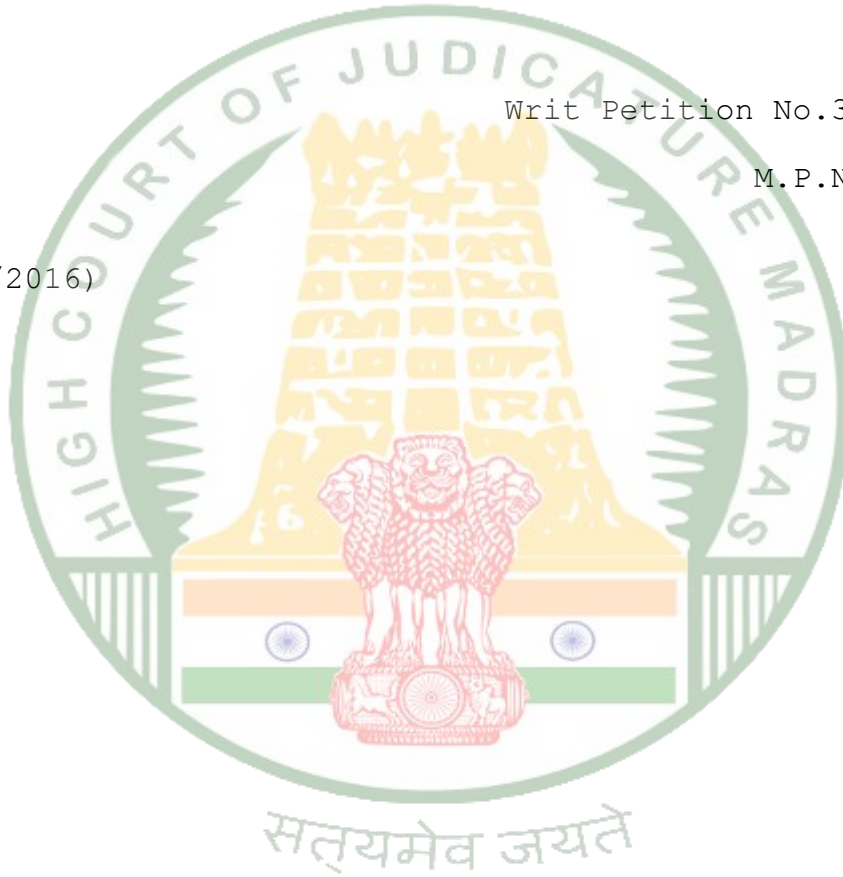
To

The Assistant Executive Engineer,  
O&M Velachery East,  
TNEB/CEDC/South,  
Chennai-42.

+1cc to Mr.R.Balachanderan, Advocate, S.R.No.13958  
+1cc to Mr.T.Gnanasekar, Advocate, S.R.No.13377  
+1cc to Mr.S.K.Rameshuwar, Advocate sr.13262

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&  
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sk(CO)  
srg(16/03/2016)



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