

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2016

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The Hon'ble Mr.Justice N.Kirubakaran

Writ Petition No.23576 of 2016
and
W.M.P.Nos.20199 and 22696 of 2016

T.Narendran ... Petitioner

Vs.

1. The Chairman and Managing Director,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 600 002.
2. The Assistant Electricity Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation Ltd.,
Solamadevi, Thiruppur District.
3. R.Valarmathi ... Respondents

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to restore and provide electricity service connection, in No.03.310001609, which provided to the house, bearing S.F.No.162, situate at Agraharakannadipudhur Village, Udumalpet Taluk, Thiruppur District, within an appropriate time.

For Petitioner : Mr.R.Nalliyappan
For Respondents 1 & 2 : Mr.S.K.Rameshuwar
Standing Counsel for TNEB

O R D E R

The petitioner has come up with the present Writ Petition, praying for issuance of a Writ, in the nature of Mandamus, directing the second respondent to restore the electricity service connection, bearing No.03.310001609, to his premises.

2. The case of the petitioner, as given in the affidavit, filed in support of the Writ Petition is that, the property, comprised S.F.No.162, situate at Agraharakannadipudhur Village, Udumalpet Taluk, Thiruppur District, belonged to his father, late Thaumanasamy. The said Thaumanasamy, during his lifetime, executed a Will, dated 06.02.2004, in favour of the petitioner and died on 08.02.2012. After his demise, the petitioner is in possession of the said property. On 29.12.2008, the petitioner entered into a sale agreement with one Lakshmi, in respect of the said property, to sell the same. In the meanwhile, the petitioner's mother, by name Gunasundari and her sister A.Krishnaveni, claiming right over the aforesaid property, executed a sale deed, dated 09.09.2009, in favour of the third respondent-R.Valarmathi. Since the electricity service connection in respect of the property, which she purchased, was standing in the name of the petitioner's father Thaumanasamy, she filed an application before the second respondent/Assistant Electricity Engineer, seeking for transfer of electricity service connection to her name, which was also granted. Objecting to the same, the petitioner made a detailed representation, dated 19.12.2012, stating that a Suit for specific performance of an agreement of sale has been filed by the said Lakshmi against the petitioner, in respect of the aforesaid property, and the same is pending before the Trial Court, and therefore, requested the second respondent not to disconnect the service connection till a verdict is passed in the civil proceedings. In the meantime, the second respondent, at the instance of the third respondent, disconnected the electricity service connection to the petitioner's property. Aggrieved by the same, the petitioner has filed this Writ Petition seeking to restore the electricity service connection to his premises.

3. Heard Mr.R.Nalliyappan, learned counsel appearing for the petitioner, and Mr.S.K.Rameshuwar, learned Standing Counsel for TNEB, accepting notice on behalf of respondent/TANGEDCO. Since the Writ Petition is disposed of, at the admission stage itself, and considering the nature of order that is to be passed herein, this Court is of the view that the third respondent need not be served with notice. Accordingly, notice to third respondent is dispensed with.

4. It is seen that the property originally belonged to the petitioner's Father, late Thaumanasamy. Though the petitioner contends that he got the property through the Will executed by his father, no steps have been taken by the petitioner to prove that the property was bequeathed in his favour, whereas, the person, who had entered into an agreement of sale with the petitioner, viz., Lakshmi, has filed a suit against the petitioner for specific performance of an agreement of sale,

viz., O.S.No.230 of 2012. It is further seen that the third respondent has also filed two suits, viz., O.S.No.231 of 2012, and O.S.No.236 of 2012. One Suit is against i) K.Azhagirisamy, and ii) T.Gunasundari, (petitioner's mother) and iii) Krishnaveni, and other suit is against the i) petitioner, ii) Lakshmi, iii) K. Azhagirisamy, iv) T.Gunasundari and A.Krishnaveni.

5. Therefore, it is clear that various civil proceedings are pending between the parties. Thus, when complicated and disputed questions of fact are involved in this Writ Petition, this Court, sitting under Article 226 of the Constitution of India, cannot adjudicate the issue and grant the relief sought for by the petitioner, moreso when, the Civil Court has seized of the issue relating to the title over the property. That apart, the third respondent has got the property from the petitioner's mother and her sister, vide a sale deed, dated 09.09.2009, based on which, she got electricity service connection transferred in her name. For the reasons stated hereinabove, the prayer sought for by the petitioner cannot be granted.

6. In the result, the Writ Petition is dismissed, leaving it open to the petitioner to approach the Electricity Board, after the civil proceedings attain finality. No costs. Consequently, both the Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chairman and Managing Director,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 600 002.
2. The Assistant Electricity Engineer,
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Distribution Corporation Ltd.,
Solamadevi, Thiruppur District.

+1 CC to M/s. R. Nalliyappan, Advocate Sr.No.47094

Writ Petition No.23576 of 2016

RP (CO)

MD : 12/09/2016