

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2016

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 26398 of 2016

C. Neelavathi

..Petitioner

Vs.

The Assistant Engineer,
Supply and Maintenance,
Tamil Nadu Electricity Board,
Sevilimedu, Kanchipuram District. ...Respondent

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Mandamus directing the respondent
to give Electricity Service Connection to the house at No.1,
Dr.Ambedkar Nagar, Sevilimedu, Kanchipuram District.

For Petitioner :: Ms.Renuka for
Mr.V. Bhiman

For Respondent :: Mr.S.K. Raameshuwar

O R D E R

The petitioner contends that she is in occupation of the property bearing Door No.1, Dr.Ambedkar Nagar, Sevilimedu, Kanchipuram District. In respect of the said property, there were earlier proceedings initiated by one Lazarus and Jebamani Saroja in O.S. No. 498 of 1993 against the petitioner's husband Chinnapaiyan and the said proceedings ended in S.A. No. 410 of 1996 wherein, this Court, by judgment dated 06.04.2006, held that the petitioner's husband is enjoying the property in question. However, after the death of her husband, when the petitioner, who has been in continuous possession of the property in question, applied for electricity connection, the respondent did not provide the same, in view of the objection raised by Lazarus and Jebamani Saroja, who lost the earlier proceedings to the petitioner's husband. Therefore, the petitioner has come before this Court by way of this writ petition.

2. Heard Ms.Renuka, learned counsel representing Mr.V. Bhiman, learned counsel for the petitioner and Mr. S.K.Raameshuwar, learned counsel for the respondents.

3. It is evident from the records that the petitioner's husband already succeeded in the earlier proceedings, which culminated in the judgment of this Court in S.A. No. 410 of 1996 dated 06.04.2006 and the relevant portion of the judgment is extracted as follows:

"After hearing the arguments of the learned counsel on either side, the appellant appeared before this Court and he has confined to the relief of permanent injunction in respect of the property marked as "BEIHDC" and give up the other relief of mesne profits and recovery of possession in respect of the property marked as 'ABCD' in the rough sketch, which is in possession of the respondent and morefully described in the Schedule of Ex.A4.

According to the learned counsel for the respondent, Ex.A2 does not contain the correct measurements, but only the Advocate Commissioner report, Ex.C2 contains the proper measurements. Per contra, the learned counsel for the appellants submitted that the sketch filed by the Advocate Commissioner were also objected to and the same cannot be relied upon. However, the learned counsel for the appellants has submitted that the appellants have no objection in allowing the respondent to occupy continuously with all rights over the extent of the property claimed by him under Ex.A4 ie., measuring 22 ft. East to West and 45 ft. North to South which is marked as 'ABCD' in the plan.

In view of the above said submissions made by the learned counsel by the appellants and taking into consideration, the fact that the appellant averred no other rival claimants in this case, except the respondent, as far as the portion under the occupation of the respondent, which is found mentioned in Ex.A4 and marked as 'ABCD' in the suit plan, is concerned, this second appeal is dismissed. The injunction sought for in respect of the portion marked 'BEIHDC' is concerned, this second appeal is allowed. No costs."

From the above extract, it is evident that the petitioner's family is residing in the property. When this Court has recorded the possession of the property by the petitioner's husband, the said Lazarus and Jebamani Saroja, having lost the proceedings, neither they, nor their legal heirs have got any right to object to the enjoyment of the property by the petitioner. Similarly, based on the objection made by the aforesaid persons, the respondent cannot deny electricity connection sought by the petitioner.

4. However, during the course of arguments, it is represented by the learned counsel for the respondent Board, on instructions, from the authority concerned, that electricity connection, sought by the petitioner, has already been given, which fact is also accepted by the learned counsel for the petitioner.

5. In view of the above fact that the petitioner has already been granted electricity connection, recording the same, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Assistant Engineer,
Supply and Maintenance,
Tamil Nadu Electricity Board,
Sevilimedu, Kanchipuram District.

+lcc to Mr.V.Bhiman, Advocate sr.43260

+lcc to Mr.S.K.Rameshuwar, Advocate Sr.43261

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