

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.09.2016

CORAM:

THE HON'BLE MR.JUSTICE N. KIRUBAKARAN

W.P. 31165 of 2016
and WMP.No.27011 of 2016

P. Balasubramanian ... Petitioner

Vs

1. The Chairman,
TANGEDCO, Anna Salai, Chennai - 2.
2. The Assistant Engineer,
Operation and maintenance (South),
Tamil Nadu Generation and Distribution,
Perambalur - 21212,
Perambalur District.

3. Prasad ... Respondents

Prayer: This petition was filed under Article 226 of the constitution of India praying to issue a Writ of Mandamus or any other appropriate Writ or order or direction in the nature of writ, forbearing the 2nd Respondent herein from giving electricity service connection to the 3rd respondent herein in respect of building put on S. No. 493/4-005 in Odiyam Village, Kunnam Taluk, Perambalur District.

For Petitioner : Mr. M.V.Krishnan

For Respondents: Mr. P. Gunaraj,

Standing Counsel for R1 &R2

ORDER

The petitioner claiming himself to be the owner, has come before this Court seeking a writ of Mandamus forbearing the 2nd respondent from giving electricity service connection to the 3rd respondent in respect of building put up in S. No. 493/4-005, Odiyam Village, Kunnam Taluk, Perambalur District.

2. Heard Mr. M.V. Krishnan, learned Counsel appearing for the petitioner and Mr. P.Gunaraj, learned Standing Counsel, who takes notice on behalf of the 1st and 2nd respondents.

3. It is contented that the petitioner purchased the property by virtue of a sale deed dated 04.12.2001 and the patta dated 20.08.2013 stands in his name and therefore the petitioner is in possession of the property. However, the petitioner's uncle Rajendran settled the property, without any right, in favour of the 3rd respondent, who is his son, through a settlement deed dated 10.06.2015. Thereafter, the 3rd respondent is said to have approached the 2nd respondent for getting electricity connection. To prevent the said action, the petitioner give a complaint on 10.06.2016 to the 2nd respondent and the 2nd respondent also replied on 20.06.2016, by calling upon the petitioner to produce the document to show that he is the owner of the property. At this stage, the petitioner has come before this Court by filing this writ petition.

4. It is seen that there is a dispute between the petitioner and the 3rd respondent with regard to the property. It is contented that though the 3rd respondent is in possession of the property, the petitioner is the owner of the same and the 3rd respondent illegally encroached upon the said property and trying to seek electricity connection. The issue regarding title and possession are only to be adjudicated before the Civil Court and the same cannot be decided either by this Court or by the respondent Board.

5. As long as the 3rd respondent is in possession of the property, whether it is legal or illegal, the proper course is only to go before the Civil Court. Without doing so, the petitioner cannot seek a writ of mandamus forbearing the 2nd respondent from giving electricity connection to the 3rd respondent. What cannot be achieved directly is sought to be achieved indirectly. As long as the 3rd respondent is said to be in possession, he is entitled to enjoy the property along with all amenities. Having effective alternative remedy before the Civil Court, against the 3rd respondent, the petitioner cannot invoke Article 226 and seek the relief against the 3rd respondent. Hence, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

rg/rts

//True Copy//

Sub Assistant Registrar

1 cc to Mr..P.Gunaraj, Advocate, sr.51213

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pur co, kra 27.09.2016