

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3848 of 2016

S.Palanivel

.. Petitioner

-Versus-

1. The Executive Engineer (Distribution/South),
Tamilnadu Electricity Board,
949, EVN Road, Erode-9.

2. The Assistant Executive Engineer (Distribution/South)
Tamilnadu Electricity Board,
EVN Road, Erode-9.

3. The Assistant Engineer,
Tamilnadu Electricity Board,
Distribution and Maintenance
Erode Electricity Distribution Circle,
Ganapathypalayam - 638 153,
Erode District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the 3rd respondent to give electricity connection for the bore well situated in Re.S.F.No.688/9, 64-B, Punjaikalamangalam Village, Erode Taluk.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.S.K.Raameshuwar
Standing counsel for TNEB

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition, for issuance of writ of mandamus directing the 3rd respondent to give electricity connection for the bore well situated in S.F.No.688/9, 64-B, Punjaikalamangalam Village, Erode Taluk.

3. The petitioner's case is that his father N.Samiappa Gounder has filed an application before the respondent seeking agricultural service connection for the well in Re.S.No.759/8, 64-B, Punjaikalamangalam Village. The petitioner's father

passed away on 13.05.2001. On 13.11.2010, the 3rd respondent sent a communication stating that the application submitted by the petitioner's father is ready for registration. Immediately, the petitioner brought to the notice of the 3rd respondent about his father's demise and requested the 3rd respondent to replace his name instead of his father's name in the application. The petitioner was directed to appear before the 3rd respondent with relevant documents.

4. The petitioner, would state that he has produced 25 documents to the 3rd respondent on 07.09.2015. Further, the petitioner would state that the water level in the well in S.F.No.759/8, 64-B, has drastically come down and therefore, the petitioner requested to give electricity service connection to the bore well situated in S.F.No.688/9, 64-B. Relying upon the order passed by the Electricity Ombudsman in A.P.No.1 of 2013 dated 31.07.2013, it is submitted that service connections can be changed and effected to a well as desired by the applicant. The allegation is that the petitioner has been endlessly dragged on by the 3rd respondent and there is no positive action taken by the 3rd respondent. With these facts, the petitioner seeks for issuance of a writ of mandamus to direct the authorities to give electricity service connection for the bore well in the land notified by the petitioner.

5. The learned standing counsel for Tamilnadu Electricity Board, by placing reliance on the written instructions given by the 3rd respondent dated 04.02.2016, submitted that to obtain name transfer and change of well from the original application place to another place, the petitioner/applicant has to submit revenue records. The allegation is that the petitioner has failed to submit the records such as FMB, TOPO Sketch showing the agricultural field with authentication of Revenue Officer along with the certificate of the Revenue Officer for the present location, where he applied for the agricultural connection originally. Further, it is stated that the communication sent by the 3rd respondent dated 02.01.2016 has been refused to be received by the petitioner and it was served by affixture. Thus, the respondent is not in a position to proceed further, because the records have not been placed before the 3rd respondent.

6. At present, we are not concerned about the application of the petitioner's father for the land in S.F.No.759/8. Though, the Village Administrative Officer, states that it is a temple land, the petitioner would state that it is not a temple land and there is a dwelling house along with a well and surrounded by agricultural lands. However, in my view the 3rd respondent cannot non suit the petitioner on this ground as the petitioner's father's application was entertained in 1991 (i.e) on 12.03.1991, it was found to be in order and was registered and kept in the waiting list over 20 years and only in 2010, readiness was directed to be

intimated. Therefore, this approach of the 3rd respondent is not tenable apart from being arbitrary, unreasonable and perverse. Therefore, the 3rd respondent should consider the petitioner's application where he has applied for change over of the application to another land where another well is situated. Therefore, the petitioner should be permitted to satisfy the authorities that he is the lawful owner of the lands in S.F.No.688/9, 64-B, for which purpose, the petitioner has to appear before the 3rd respondent. The other contention raised by the 3rd respondent is that the limitation to enter readiness has expired on 30.01.2016, cannot be put against the petitioner in the light of the factual situation stated above.

7. Accordingly, the writ petition is allowed by directing the petitioner to appear before the 3rd respondent along with a copy of this order, produce the relevant documents to show that he is the rightful owner of the land situated at S.F.No.688/9, 64-B and on perusal of the documents and after the 3rd respondent being satisfied as regards the petitioner's title to the said property, service connection shall be granted to the petitioner taking into consideration the seniority as per the registration done by his father during 1991. The above direction shall be complied with within a period of four weeks from the date on which the petitioner appears before the 3rd respondent. No Costs.

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Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Executive Engineer (Distribution/South),
Tamilnadu Electricity Board,
949, EVN Road, Erode-9.

2. The Assistant Executive Engineer (Distribution/South)
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EVN Road, Erode-9.

3. The Assistant Engineer, Tamilnadu Electricity Board,
Distribution and Maintenance
Erode Electricity Distribution Circle,
Ganapathpalayam - 638 153, Erode District.

+ 1 cc to Mr.S.K.Raameshuwar, Advocate Sr 10384

KR/24/2/16

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