

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3920 of 2016

S.Senthamarai

.. Petitioner

Versus

1 The Chairman  
Tamil Nadu Electricity Board Anna Salai  
Chennai-2.

2 The Assistant Engineer  
Tamil Nadu Electricity Board Mannurpet  
Korattur Chennai-80.

3 A.Selvam .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the second respondent to give electricity service connection to the premises of the petitioner in pursuance of payment of Bill dated 16.12.2015 in Bill No.438-12/ 15-771.

For Petitioner : Mr.P.Rathanavel

For Respondents : Mr.P.R.Dhilipkumar (for R1 and R2)

Standing counsel for TNEB.

O R D E R

With the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner, is the wife of late Sankar, who is the brother of the 3rd respondent. The petitioner now seeks for a direction to the 2nd respondent to grant separate electricity connection to her in respect of property in S.No.916/2A. Petitioner claims to be in possession of the property. However, the 3rd respondent, by virtue of the settlement deed dated 28.10.1987, had filed a suit in O.S.No.46 of 2012, on the file of the Sub Court, Poonamallee, against the petitioner's husband and three others, for a declaration that he is the sole and absolute owner of the property and the Civil Court passed an exparte decree in the said suit on 02.07.2014.

3. The petitioner and her children have now filed a petition to implead themselves in the suit and to set aside the exparte decree and permit them to contest the matter. Till date, the application is yet to be considered by the Civil Court and the said decree stands as such. With these facts, now the petitioner wants a separate electricity connection in her name. The matter is now pending before the Civil Court. Obviously the 2nd respondent cannot decide the question of title. But, the allegation is that the 3rd respondent is frequently disconnecting and disturbing the electricity supply to the premises, since the electricity main is situated in the portion, where the 3rd respondent is residing.

4. In this regard, a representation through petitioner's advocate has been sent to the 2nd respondent on 30.12.2015, which has been received by the 2nd respondent on 02.01.2016, as could be seen from the postal acknowledgment card.

5. In the light of the above controversy, at this stage of the matter, the question of issuing a positive direction to the 2nd respondent to grant the electricity connection, cannot be granted. Therefore, the prayer sought for has to be necessarily declined. However, since the petitioner's representation dated 30.12.2015, sent through the petitioner's counsel is pending before the 2nd respondent, in the fitness of things, the 2nd respondent should be directed to consider the same on merits.

6. In the light of the above, while rejecting the prayer sought for by the petitioner, there will be a direction to the 2nd respondent to consider the representation dated 30.12.2015, sent through his counsel, issue notice to the petitioner and the 3rd respondent and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the allegations nor has made any observation, which would in any manner prejudice the 3rd respondent.

7. The writ petition is disposed of, accordingly. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

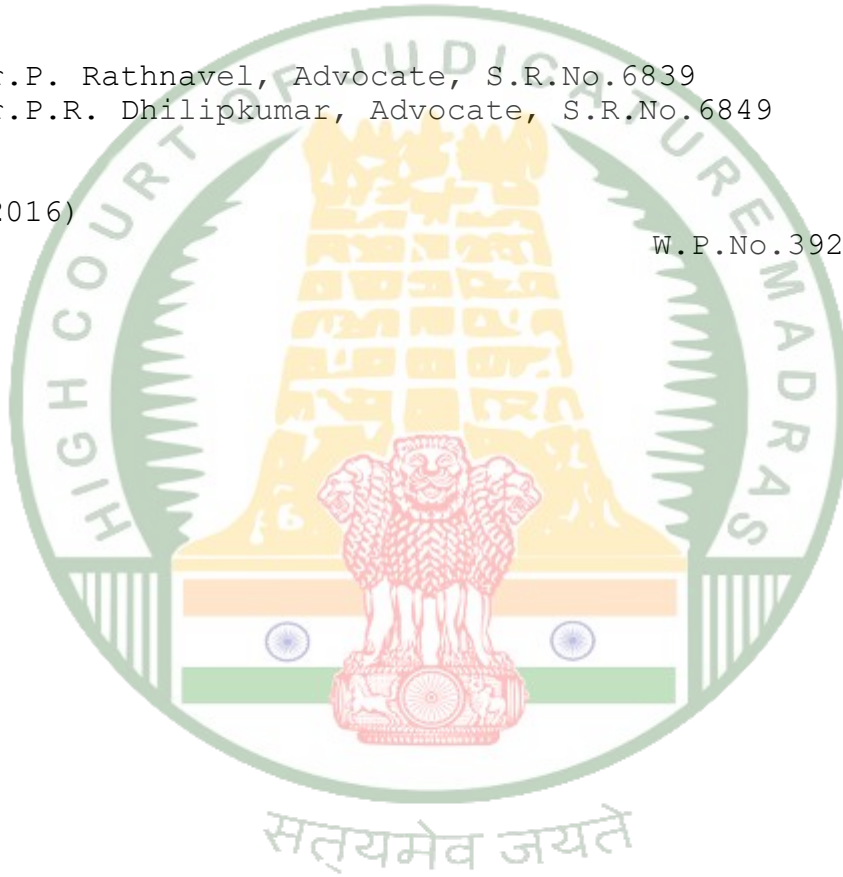
- 1 The Chairman  
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+1cc to Mr.P. Rathnavel, Advocate, S.R.No.6839

+1cc to Mr.P.R. Dhilipkumar, Advocate, S.R.No.6849

KGK(CO)  
EU(12/02/2016)

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