

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.780 of 2016
& WMP.No.590 of 2016

N.Radhakrishnan

.. Petitioner

V.

- 1 The Assistant Engineer
(Operation & Maintenance) TANGEDCO,
Erode Distribution Circle, Sivagiri West,
Sivagiri Post, Erode 638 109.
- 2 The Chairman
TANGEDCO Anna Salai, Chennai 2. .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records relating to the letter of the 1st respondent in No.U. Mi. Po/E. Pe/ Me/Sivagiri/Ko/No.285/15-16 dt 26.11.2015 in so far as it directs the submission of consent letter from the co-owners of the open well situated at R.S. No.1164/14 and quash the same and consequently direct the 1st respondent to transfer the petitioner's name in the pending application for agricultural service connection bearing Registration No. 26/1992-93 dt 25.4.1992 for 3 HP motor in the well situated at R.S. No.1164/14 Sivagiri Village Erode Taluk without insisting upon the consent letter.

For Petitioner .. Mr.S.Thangavel

For Respondents .. Mr.S.K.Raameshuwar

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

2.The petitioner is said to have purchased an extent of agricultural land along with the well from P.Nachimuthu Gounder S/o Palaniappa Gounder, in which, the petitioner's vendor is a co-sharer. The petitioner's vendors are one Shanmugam and Jothimani, who are the legal heirs of Nachimuthu Gounder, the

original owner. The sale deed has been registered in the name of the petitioner vide Document dated 20.08.2014. The petitioner's vendors predecessor i.e. Nachimuthu had applied for an electricity service connection in his name vide Application dated 25.04.1992. The application was registered in the office of the 1st respondent and the same was pending. During the pendency of such application, the petitioner has purchased the property and now he seeks for the said application to be transferred in his name. In this regard, the petitioner has submitted an application under Clause 27(2) of the Electricity Supply Code. In the application, the petitioner has admitted that apart from him, there are two other co-owners for the well viz., Muthusamy Gounder and Chongappa Gounder. It appears that both the co-owners are no more and their legal representatives are only enjoyed the service connection.

3.The petitioner would state that the respondent should not insist upon a No Objection Certificate from the other co-owners for transferring the application given by Palaniappa Gounder to the name of the petitioner. However, in terms of Clause 27 of the Electricity Distribution Code, an application for transfer the name of the applicant could not be made only after hearing the other co-owners of the property/well. Since the application given by Palaniappa Gounder was pending consideration and no orders were passed on the application, the rule or the law which governs such application on the date of consideration alone will be relevant. Therefore, the request have been made by the petitioner, at this juncture, the application requires to be considered in accordance with the Distribution Code and this mandates that the co-owners have to give their No Objection Certificate or consent for transfer. However, it appears that the legal heirs of the other two co-owners have raised certain objections and therefore, the question of obtaining a No Objection Certificate from them would not arise. However, the 1st respondent should consider the merits of such objections as to whether they are genuine and germane to the issue. The petitioner would state that transfer of service connection has been effected from the names of the other two co-owners without the consent of the petitioner or his predecessors in title. This aspect also has to be taken into consideration.

4.Thus, in the light of the facts and circumstances of the case, the impugned proceedings is set aside and the matter is remanded to the 1st respondent for fresh consideration, who shall issue notice to the petitioner and the legal heirs of the other two co-owners, who are said to be in enjoyment of the service connection and after hearing the parties, pass fresh orders on merits and in accordance with law within a period of eight weeks from the date of receipt a copy of this order.

5.In the light of the orders passed by this Court, the application submitted by the petitioner's predecessor-in-title Palaniappa Gounder shall not be considered, till orders are passed by the 1st respondent in terms of the above.

6.With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

To
Sub Assistant Registrar

1.The Assistant Engineer
(Operation & Maintenance) TANGEDCO,
Erode Distribution Circle, Sivagiri West,
Sivagiri Post, Erode 638 109.

2.The Chairman
TANGEDCO Anna Salai, Chennai 2.

+1cc to M/S.S.Thangavel, Advocate, S.R.No.4607
+1cc to M/S.S.K.Raameshuwar, Advocate, S.R.No.4738

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