

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.9627 of 2016
and
W.M.P.No.8657 of 2016

Natarajan

...Petitioner

Vs.

1. The Executive Engineer (O & M)
Tamil Nadu Electricity Board,
Nellikuppam, Cuddalore District.
2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Naduveerapattu, Cuddalore District.
3. Sri Kailasanathar Temple,
rep. by its Managing Trustee,
Naduveerapattu,
Cuddalore District.
4. The President,
Naduveerapattu Village Panchayat,
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the order passed by the first respondent in Na. Ka. No. Se. Pho/E. Pa/Nelli/Tho. Nu.Vul/Kho. Manu/A.No.101/15, dated 15.07.2015, and to quash the same and consequently, to direct the respondents 1 and 2 to give electricity connection to the petitioner's house and the shops situate in S.No.176/2, Naduveerapattu Village, Cuddalore Taluk and District.

For Petitioner : Mr.R.Sunil Kumar
For Respondents 1 and 2 : Mr.Varun Kumar for TNEB

O R D E R

Heard Mr.R.Sunil Kumar, the learned counsel appearing for the petitioner and Mr.Varun Kumar, the learned counsel, who

accepts notice for the respondent-Board, and with their consent, the main Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner has filed this Writ Petition to quash the proceedings of the first respondent, dated 15.07.2015, by which, the petitioner's request for electricity service connection has not been considered on two grounds. Firstly, on the ground that there is a decree of injunction, operating against the respondent-Board in O.S.No.1069 of 1988, on the file of the District Munsif Court, Cuddalore. Secondly, on the ground that the petitioner has to produce patta in respect of the property in S.No.176/2.

3. The petitioner's case is that, he is not a party to the suit proceedings in O.S.No.1069 of 1988, which is filed by the third respondent-Temple. However, the petitioner would rely upon the decree passed by the III Additional Subordinate Court, Cuddalore, in A.S.No.59 of 2013, dated 21.03.2015, in which, the first respondent is the third respondent-Temple, the respondents 2 and 3 are Officials of the Electricity Board, and the fourth respondent is the President of the Village Panchayat, who is the fourth respondent herein, and the fifth respondent is the Block Development Officer. The said Appeal was filed as against the judgment and decree passed in O.S.No.602 of 2005, dated 20.03.2013, on the file of the Additional District Munsif Court, Cuddalore. The petitioner would state that, in the said decree, the Lower Appellate Court has issued a positive direction by allowing the Appeal, and dismissing the Original Suit, and therefore, the petitioner claims that he should be granted electricity service connection. The other ground for non consideration is that, unless, the petitioner produces the patta in respect of the property in S.No.176/2, the question of considering his case does not arise. However, it appears that the petitioner has certain certificates issued by the Village Administrative Officer, but has not filed the patta with regard to the property in dispute, along with this Writ Petition.

4. In the light of the above, the question of setting aside the impugned proceedings does not arise, and the petitioner has to produce necessary documents, since the third respondent-Temple appears to have been contesting the matter by raising contention that the property belongs to the Temple. Therefore, while rejecting the prayer sought for herein, viz., to quash the impugned proceedings, a direction is issued to the petitioner to produce copies of the judgement and decree passed in A.S.No.59 of 2013, dated 21.03.2015, along with patta or any other documents to prove his lawful possession over the property, and appear before the first respondent, and if the petitioner produces those documents, then, the first respondent shall issue notice to the petitioner, third respondent-Temple

and the fourth respondent, and after considering the submissions made by all the parties, the first respondent shall pass appropriate order on merits and in accordance with law. The above direction be complied with, by the first respondent within a period of eight weeks from the date on which the petitioner appears before him and produces the documents in terms of the direction issued herein.

5. In the result, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

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s/d-
Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Executive Engineer (O & M)
Tamil Nadu Electricity Board,
Nellikuppam,
Cuddalore District.
2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Naduveerapattu,
Cuddalore District.

+ 1 cc to Mr.R.Sunilkumar, Advocate SR 17222

+ 1 cc to M.Varunkumar, Advocate SR 16897

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