



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

C O R A M

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THE HONOURABLE DR.JUSTICE S.VIMALA

Writ Petition (MD) No.18204 of 2016
and
W.M.P.(MD)No.13128 of 2016

T.Chidamparam

.. Petitioner

Vs.

The Assistant Engineer,
(TANGEDCO) Tamilnadu Electricity Board,
Bodi Nayakkanoor, Theni District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to grant electricity connection to the petitioner's house in S.No.412/3 situated at South Manthai Pulam, Mela Chokkanathapuram Village, Bodinayakkanoor, Theni District within a stipulated time.

For petitioner ... Mr.S.Kameswaran
For Respondent ... Mr.S.M.S.Jonny Basha

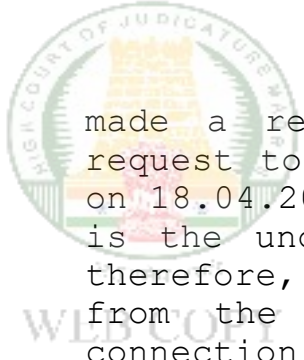
O R D E R

This is a writ of Mandamus seeking direction to the respondent to grant electricity service connection to the petitioner's house in S.No.412/3 situated at South Manthai Pulam, Mela Chokkanathapuram Village, Bodinayakkanoor, Theni District.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3.The case of the petitioner is that he is the owner of the property by virtue of registered sale deed, dated 22.06.1979 executed by his father. The Village Administrative Officer has also certified that in the property in question, a house has been constructed by the petitioner herein.

4.The learned counsel for the petitioner submitted that permission and approval for construction of the house has been granted only in favour of the petitioner. Hence, the petitioner



made a representation to the respondent on 13.04.2016 with a request to provide electricity service connection. The respondent on 18.04.2016, sent a letter stating that the land in S.F.No.412/3 is the undivided joint property of the petitioner's family and therefore, the petitioner should obtain No Objection Certificate from the other family members and only thereafter, service connection would be provided.

5.The learned counsel for the petitioner submitted that the consent letter, as asked for by the respondent is not necessary, as the property is not a joint family property, but it is the exclusive property of the petitioner and it is obtained by virtue of the registered settlement deed.

6.It is also pointed out that the suit in O.S.No.47 of 2016 has nothing to do with the suit property and it is a suit for partition filed by the petitioner herein in respect of other properties belonging to the family. Under such circumstances, a direction is sought for to the respondent to give service connection.

7.The impugned order is under challenge on the ground that the petitioner is not under an obligation to obtain No Objection Certificate from the brothers, who are objecting to the electricity service connection, because they are not the co-owners or the owners of the petition mentioned property.

8.Prima facie settlement deed dated 22.06.1979 confers ownership upon the petitioner alone. Under such circumstances, the respondents should have relied upon the settlement deed dated 22.06.1979 and should have considered the grant of electricity service connection subject to any other condition being imposed, with regard to indemnity. Therefore, the impugned order, dated 18.04.2016 is set aside and the respondents are directed to consider the representation, dated 13.04.2016, in the light of the settlement deed, dated 22.06.1979 and to pass orders within a period of eight weeks from the date of receipt of a copy of this order. Even if the suit, which is pending before the Civil Court, covers this property also, the electricity service connection shall be provided subject to the result of the suit.

9.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/



To

The Assistant Engineer,
(TANGEDCO) Tamilnadu Electricity Board,
Bodi Nayakanoor, Theni District.

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+ 1 CC TO Mr.S.KAMESWARAN, ADVOCATE IN SR No. 60929

RJ2

TE/SS-2 : 11/11/2016 : 3P/3C

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and
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