



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2016

C O R A M

THE HONOURABLE DR.JUSTICE S.VIMALA

WEB COPY

Writ Petition (MD) Nos.18864 & 18865 of 2016

P.Muthurakel .. Petitioner in W.P.(MD)No.18864 of 2016

P.Balamurugan .. Petitioner in W.P.(MD)No.18865 of 2016

Vs.

1.Junior Engineer,
Distribution/Urban,
TANGEDCO, Shanthi Nagar,
Palayamkottai, Tirunelveli District.

2.The Executive Officer,
Arulmigu Venkatachalapathi Temple,
Thimmarajapuram, Tirunelveli District.

.. Respondents in both the writ petitions

Common Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st Respondent to give electricity supply to the Petitioners' houses in Door No.6/69A, Rajamannar Street, Thimmarajapuram, Tirunelveli - 627 753 and Door No.7/272, Pillaiyarkovil Street, Thimmarajapuram, Tirunelveli- 627 753, respectively, without insisting NOC to be obtained from the 2nd Respondent.

For petitioners in

both the W.Ps. ... Mr.K.Saravanan

For R1 in both W.Ps. ... Mr.G.Kasinathadurai

For R2 in both W.Ps. ... Mr.H.Arumugam

O R D E R

These writ petitions have been filed seeking direction to the first respondent to give electricity service connection to the petitioners' houses at Door No.6/69A, Rajamannar Street, Thimmarajapuram, Tirunelveli - 627 753 and Door No.7/272, Pillaiyarkovil Street, Thimmarajapuram, Tirunelveli- 627 753, respectively, without insisting No Objection Certificate to be obtained from the second Respondent.

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



3.The learned counsel for the petitioner relied upon the Judgment of this Court in *A.MUTHUSAMY v. THE ASSISTANT ENGINEER, TNEB* reported in 2009 (4) CTC 606. This Court specifically invited the attention of the learned counsel for the petitioner to the observation made in paragraph No.6 of the said Judgment, which reads as under:-

"Admittedly, the petitioners are not the owners of the land on which the houses were constructed and the lands are now vested with the Tamil Nadu Housing Board. Therefore, at best they could be considered as encroachers. This contingency has been taken care under Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code, which reads as follows:-

"An intending consumer who is not the owner of the premises he occupies of Annexure III to this Code from the owner of the premises for availing the supply. If the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III of this Code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.""

4.This Court also invited the attention of the learned counsel for the petitioners that the Rule contemplates provisions for service connection only in the case of those persons, who are in lawful occupation of the premises and wanted to know as to the proof for the petitioner's lawful occupation.

5.In reply, the learned counsel for the petitioners invited the attention of this Court to page No.4 of the typed set of papers, which speaks about the Nativity Certificate. In the Nativity Certificate, what is stated is that the petitioners are permanently residing in that place.

6.Under such circumstances, this Court is of the view that permanent residence has nothing to do with the lawful occupation of the petitioners. It is not the case of the petitioners they have lawful occupation and when the Rule provides for No Objection Certificate to be obtained and when there is no No Objection Certificate obtained, the question of providing indemnity bond does not arise. Further, it is not the case of the petitioners that they approached the owner of the land to get No Objection Certificate. Hence, there cannot be a direction by this Court to the authorities to bye-pass Rules and Regulations and to grant electricity supply.



4. In the result, these writ petitions are dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The Junior Engineer,
Distribution / Urban,
TANGEDCO, Shanthi Nagar,
Palayamkottai,
Tirunelveli District.

2. The Executive Engineer,
Arulmigu Venkatachalapathi Temple,
Thimmarajapuram,
Tirunelveli District.

+1cc to Mr. G. Kasinathadurai, Advocate in R No. 58365

+2cc to Mr. H. Arumugam, Advocate in SR Nos. 59046 and 59047

Writ Petition (MD) Nos. 18864 and
18865 of 2016
03.10.2016

RJ2

ANR/EM-MPA/08.11.2016/3P/6C