



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM

THE HON'BLE Mr. JUSTICE R. SURESH KUMAR**W.P. (MD) No.18513 of 2013**

WEB COPY

V.C.Ravichandran

... Petitioner

-vs-

1.The Assistant Engineer
Operation and Maintenance
Tamil Nadu Generation and
Distribution Corporation,
Alangudi, Pudukottai District

2.C.Panneer Selvam

...Respondents

(2nd respondent is impleaded
vide order of this Court dated 14.12.2016 in
M.P.No.2 of 2013)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the respondent in Ka.En.Vu.Po/E Ka/Nagar/Aala/Ko 2 /A.No.13 dated 20.09.2013 and quash the same as arbitrary and illegal and consequently direct the respondent to give electricity service connection to the house of the petitioner situate in T.S.No.1072/2, Kannagi Street, Alangudi Taluk, Pudukottai District within a time frame to be fixed by this Court.

For Petitioner	: Mr.K.N.Govardhanan
For Respondents	: Mr.S.M.S.Johnny Basha for R1 Mr.N.Balakrishnan for R2

ORDER

The prayer in the writ petition is for a writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the respondent in Ka.En.Vu.Po/EKa/Nagar/Aala/Ko2/A.No.13 dated 20.9.2013 and quash the same and consequently direct the respondent to give electricity service connection to the house of the petitioner situate in T.S.No.1072/2, Kannagi Street, Alangudi Taluk, Pudukottai District within a time frame.

2. The property situated at T.S.No.1072/2 at the aforesaid address originally belong to the father of the petitioner. The petitioner's father purchased the property and therefore, it become a self acquired property. After the death of his father,



the petitioner and other legal heirs including the 2nd respondent are having right over the property. Originally, there was an old dwelling house located in the said land, since had become dilapidated condition and after the death of the father of the petitioner, in one portion of the property, the petitioner has constructed a house. The Door Number for the old house was 58. Subsequently, after having constructed a new building by the petitioner, a new number "19A" was given and therefore, the petitioner is residing at the new building at 19A in the said Town Survey Number.

3. Though there is service connection in the old building at D.No.58, since the same become unusable, as no one is residing, the petitioner wanted to give fresh service connection at his dwelling house at 19A or to transfer the said service connection at D.No.58 in the name of the petitioner's father in his favour. The said request of the petitioner was turned down by the 1st respondent through the impugned order dated 20.09.2013. In the impugned order, the respondent has given reasons for rejection that the property at D.No.58 stands in the name of the petitioner's father, whereas application had been filed by the petitioner and there is no property tax receipts stand in the name of the petitioner. Moreover, already there is a service connection at D.NO.58. The petitioner, since claimed that property was inherited by him from his father, there is no document to that effect also, the 2nd respondent, who is none other than the brother of the petitioner, had also objected for giving service connection to the petitioner. In view of these defects, the request of the petitioner to give electricity service connection to his dwelling house was not considered and therefore, it was rejected. Challenging the said impugned order, the petitioner has come out with this writ petition.

4. The learned counsel for the petitioner would contend that no doubt, the property at the said survey number, which is corresponding to the D.No.58 belongs to the petitioner's late father, who purchased the property on his own and after his demise, all his legal heirs including the petitioner are inheriting the property. The old dwelling house at D.No.58, since become dilapidated and it is not in a livable condition, the petitioner decided to build up his own house in a portion of the land at the said Survey Number and accordingly, he has also built the house and that has been assigned with new D.No.19A by the authorities concerned. Only for the said dwelling house of the petitioner, the petitioner had requested for electricity service connection. In this regard, the learned counsel for the petitioner would contend that either the service connection stands in the name of the late father of the petitioner at D.No.58 can be <https://hcservices.cemilchcservices/> the petitioner or otherwise the said service connection can once for all disconnected and a new service connection in the name of the petitioner at the new dwelling house



can be given. Agreeing for both, the petitioner has made an application to that effect. But the respondents, by citing the aforesaid reasons, rejected the same.

5. In this regard, the learned counsel for the petitioner would contend that assuming that the 2nd respondent, being the brother of the petitioner, has objected for giving service connection to the petitioner, admittedly, there is a civil proceedings pending between the legal heirs of the deceased father, where the 2nd respondent and other legal heirs are parties, that will not preclude the authorities ie., the respondents herein from giving the electricity service connection for the dwelling house of the petitioner. In this regard, the learned counsel for the petitioner would rely upon sub clause 4 of clause 27 of the Tamil Nadu Electricity Distribution Code 2004 (hereinafter referred to as 'the Code'). The said provision reads thus:

"27(4).An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or 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 to this Code indemnifying the licensee against any loss on account of disputes arising out off effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

6. Even if the person, who seeks for service connection is not the owner of the property, he can produce the proof of his being the lawful occupation of the premises and also to execute an indemnity bond in Form 6 of the Annexure III as required under the Code. If such formalities are complied with by any person, who is in lawful possession of the building or property, the request of such person can be considered for electricity service connection.

7. In this regard, the petitioner also relied upon a decision of this Court vide order dated 14.02.2013 in W.P.No.1323 of 2013 in the matter of P.Mariammal v. Assistant Engineer, (O&M) and another reported in CDJ MHC 1635. In the said judgment, a similar situation arose, where, after having considered the import of the said provision, namely, 27(4) of the Code, the learned Judge has passed the following order, which are reproduced here for better appreciation:

"5.At this stage of the hearing of the writ petition, the learned counsel appearing on behalf of the respondent had submitted that the first respondent would give the electricity service connection, in the name of the petitioner, in respect



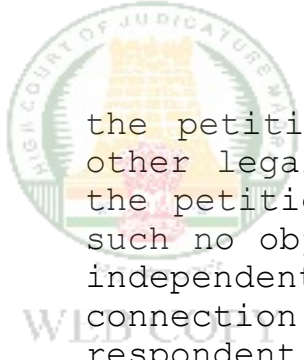
of the property in question, as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, within a specified time, as per the directions to be issued by this Court.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned, and in view of the records available, the first respondent is directed to grant electricity service connection to the petitioner, as prayed for by her, in the present writ petition, under Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, on her submitting the necessary application and on production of the required records and on payment of the charges due to be paid by her, for the grant of the electricity service connection. On the petitioner, fulfilling the necessary requirements, the first respondent is to grant the electricity service connection, within a period of eight weeks thereafter.

7. However, it is made clear that the grant of electricity service connection, to the premises of the petitioner, by the respondent Tamil Nadu Electricity Board, shall not, in any way, vest any additional right or interest in the petitioner, in respect of the property in question. Further, it would not be open to the petitioner to claim that she had established service connection, from the respondent Tamil Nadu Electricity Board. The writ petition is disposed of, with the above directions. No costs."

8. Therefore, the learned counsel for the petitioner would contend that in view of the provision in the Code as well as the said judgment, the petitioner would be entitled to seek service connection and the same cannot be refused on the ground that an objection was made by the 2nd respondent. Therefore, the impugned order giving such reason for rejection of the claim of the petitioner is untenable and therefore, the same is liable to be interfered with.

9. Per contra, the learned counsel for the first respondent would contend that there is already a service connection at Door No.58 and the same has not been disconnected. No one has claimed that connection has to be disconnected other than the petitioner. The petitioner also did not produce any documents to establish that he is the owner of the property, either at D.No.58 or at Door No.19A. Merely because, he claimed that he is one of the legal heir of the owner of the property, who is the deceased father of ~~the petitioner~~ and he also inherited his father's property, wherein, he has built up a house, he would not be entitled to seek service connection on his own and for the said purpose, at least,



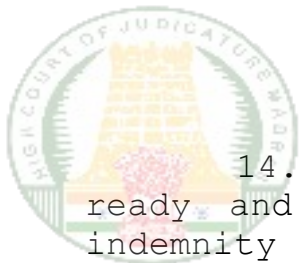
the petitioner could have obtained no objection certificate from other legal heirs and produced the same, in such case the plea of the petitioner could have been considered. In the absence of any such no objection certificate from any legal heirs, the petitioner independently approached the first respondent seeking service connection. Therefore, the same was rejected rightly by first the respondent through the impugned order. Hence, the same is sustainable one and no interference is required.

10. The learned counsel for the 2nd respondent also would contend that there is a dispute between the legal heirs of the deceased father over the property in question, though the petitioner claimed that he has built up a house, a civil suit pertaining to this issue is pending before the competent civil Court and unless one way or the other, the same is decided, the petitioner cannot have any right to claim over the property and on that ground independent service connection cannot be claimed by the petitioner. Therefore, the 2nd respondent has rightly objected for granting service connection for the petitioner, which was considered by the first respondent and they have rightly rejected the claim of the petitioner.

11. This Court have considered the rival submissions made on either side and the materials placed before this Court have been perused.

12. The fact remains that the property, which is in question originally belong to the father of the petitioner, who purchased the same during his life time. Therefore, it become the self acquired property and therefore, who has to inherit the same among the legal heirs of the deceased father is to be only decided by the competent civil Court, where a civil suit is pending as admitted by both sides. However, for getting a service connection, whether the title has to be proved by the consumer is a question to be decided.

13. As has been rightly relied upon by the learned counsel for the petitioner, Clause 27(4) of the Code is clear and unambiguous, whereby if the consumer is not the owner, he can claim service connection, of course by following the formalities including the execution of the indemnity bond in Form 6 of the Annexure III and once such formalities are complied with, the person, who is in dwelling house, can be considered for service connection separately. In this regard, the said judgment relied upon by the learned counsel for the petitioner is squarely covered the issue raised in this writ petition also, as, in that case also, the learned Judge was of the view that service connection can be given under Regulation 27(4) of the Code on submitting application and on production of the required records and also on payment of necessary charges.



14. Here in this case on hand also, since the petitioner is ready and willing to pay charges and also to file necessary indemnity bond as required under Regulation 27(4) of the Code and other documents to prove possession of the petitioner, this Court is of the view that there can be no further impediment for the respondents to give electricity service connection to the dwelling house of the petitioner.

15. Since the electricity service connection is one of the amenities, the same cannot be denied without acceptable or plausible reasons and only in order to tide over the situation like this, in the Code, the Regulation 27(4) of the Code has been given and the same can very well be employed in the present situation, as has been given in the said judgment of this Court referred to above. Therefore, the impugned order is liable to be quashed and accordingly quashed and the writ petition is allowed with a direction that the respondents shall provide service connection to the petitioner, of course, after having completed the formalities by the petitioner, as provided under Regulation 27 (4) of the Code. On completion of the said formalities without any demur on the part of the petitioner, the service connection can be given to the petitioner within a period of two weeks thereafter.

No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To
The Assistant Engineer
Operation and Maintenance
Tamil Nadu Generation and
Distribution Corporation,
Alangudi, Pudukottai District

+1cc to Mr.K.N.Govardhanan, Advocate, SR No.8315

rr

ms/rsk/9.2.2017/6p.3c

W.P. (MD) No.18513 of 2013
and M.P.No.1 of 2013
22.12.2016