

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

S.A.No.800 of 2017

S.Yasothammal

.. Appellant/Appellant/Plaintiff

-Vs-

1. The Superintending Engineer
Tamil Nadu Electricity Board,
Katpadi, Vellore 6
2. The Assistant Divisional Engineer
Tamil Nadu Electricity Board,
Shenbakkam,
Vellore Taluk and District
3. The Junior Engineer
Tamil Nadu Electricity Board,
Shenbakkam,
Vellore Taluk and District

.. Respondents/Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 C.P.C against the Judgment and Decree dated 28.11.2014 made in A.S.No.14 of 2014 on the file of the Subordinate Judge, Vellore by confirming the decree and judgment dated 30.09.2013 made in O.S.No.521 of 2012, on the file of the Principal District Munsif Court, Vellore.

For Appellant : Mr.E.Kandan

O R D E R

The plaintiff is the appellant, having lost before the Courts below in a suit filed for mandatory injunction directing the defendants 1 to 3 to give service connection to the plaintiff 's suit schedule property.

2. It is the case of the plaintiff that she made an application to the respondents seeking service connection to the suit property. The Assistant Engineer, T.N.E.B. Vellore District, who had inspected the suit property, had passed an

order 08.03.2012 stating that there is a high tension line passing through the premises. Hence, the service connection could not be given to the plaintiff, unless the same is removed. It is further stated in the order that the domestic service connection could not be given, when the high tension lines are going ahead. Aggrieved by the said order, the appellant has also preferred an appeal before the Superintending Engineer, T.N.E.B, Vellore on 03.04.2012. The copy of the appeal is also marked as Ex.A-4. However, the fate of the appeal is not known till today. Learned counsel for the appellant is also not able to speak about the orders passed by the Superintending Engineer, T.N.E.B, Vellore on Ex.A-4.

3. The trial Court had dismissed the suit on the ground that in view of the technical reasons explained by the respondent-Electricity Board, the relief sought for in the suit cannot be granted. However, the appellate Court had found that as per Section 145 of the Electricity Act, 2003, the Civil Court has got no jurisdiction to entertain the suit in respect of any matter which an assessing Officer referred to in Section 126 or an appellate authority referred to in Section 127. As the appellant has already preferred an appeal before the Superintending Engineer, T.N.E.B, Vellore, the Civil Suit is not maintainable. As stated earlier, the appellant has also not stated as to what happened to the appeal before the Superintending Engineer. However, in view of the fact that the appeal is not maintainable before the Civil Court against the order of the Assessing Officer, the suit is not maintainable and the lower appellate Court has also rightly dismissed the suit.

This Court finds no reason to interfere with the findings of the Courts below and there is no question of law arising for consideration in the Second Appeal.

5. Accordingly, the Second Appeal is dismissed, confirming the judgment and decree of the Courts below. No costs.

Sd/-

Assistant Registrar (CS II)

//True copy//

Sub Assistant Registrar

srn

To

1.The Subordinate Judge, Vellore

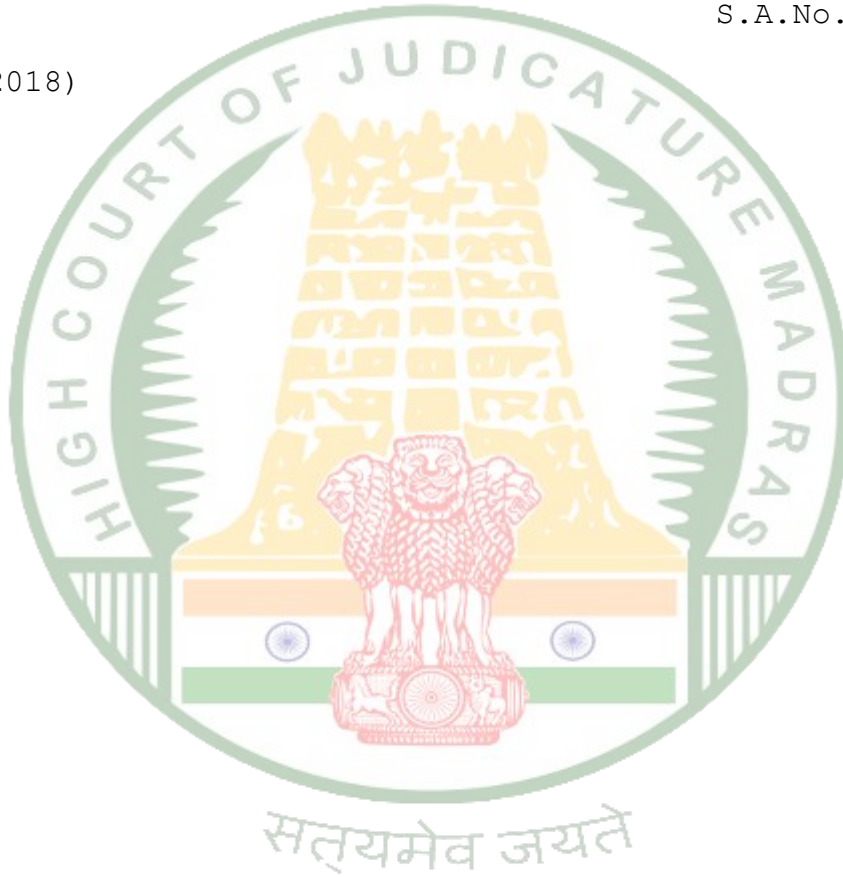
2.The Principal District Munsif Court, Vellore.

3.The Section Officer, V.R.Section,
High Court, Madras.

+lcc to Mr.R.Thanjan, Advocate SR.No.87650

S.A.No.800 of 2017

RSK(CO)
GN(24/01/2018)



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