

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 14455 of 2013

and

M.P. No. 1/2013 and WMP No.36280/2016

R. Thangavel

.. Petitioner

Vs.

1. The Assistant Engineer
Tamil Nadu Electricity Board
Erisinampatti
Udumalpet Taluk
Tiruppur District.

2. The Superintending Engineer
Tamil Nadu Electricity Board
Udumalpet Taluk
Tiruppur District.

3. R. Subramaniam
S/o. Late Rangasamy Gounder
D. No.1/2, Salaiyur Post
Udumalpet Taluk
Tiruppur District.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the

respondents 1 and 2 from taking any steps for the purpose of giving electrical service connection to the bore well belonging to the 3rd respondent situated in S.F. No.247/4, Periapappanoothu village, Udumalpet Taluk, Tirupur District pending disposal of the suit in O.S. No. 187 of 2010 on the file of the Court of the District Munsif, Udumalpet or appeals therefrom and pass further orders.

For Petitioner : S. Thangavel

For Respondents : Mr. S. K.Rameshwar
Standing Counsel for TNEB
for R1 & R2

Mr. N. Thiagarajan for R3

ORDER

This Writ Petition has been filed seeking for a direction to forbear the respondents 1 and 2, from taking any steps to provide electrical service connection to the bore well belonging to the 3rd respondent, situated in S.F. No.247/4, Periapappanoothu village, Udumalpet Taluk, Tirupur District pending disposal of the suit in O.S. No. 187 of 2010 on the file of the Court of the District Munsif, Udumalpet or appeals there from.

2. Learned counsel for the petitioner submits that the properties comprised in S.F. Nos. 247 and 248 situated at Periapappanoothu Village, Udumalpet Taluk, Tirupur District jointly belongs to the petitioner, his brother Subramaniam, the 3rd respondent and also one Selvi, wife of his deceased brother Ponnusamy. He further submitted that when the 3rd respondent applied for electrical service connection to his bore well, the petitioner objected since some coconut trees have to be cut and it would cause hardship to him. So, the respondents 1 and 2, stopped the work and directed the 3rd respondent to get suitable orders from competent civil court for obtaining service connection. Hence, the 3rd respondent filed a suit in O.S.No.187 of 2010 on the file of the District Munsif, Udumalpet seeking permanent injunction restraining the petitioner and his family from getting electrical service connection to his bore well in the suit property. An interim injunction was granted in I.A.No.549 of 2010 on 22.04.2010, ex-parte. Subsequently, the petitioner filed I.A.No.575 of 2010 and got the interim injunction vacated vide order dated 29.04.2010. In spite of the same, respondents 1 and 2 initiated steps to provide electrical service

connection to the 3rd respondent and so the petitioner is before this Court.

3. Based on the counter filed by the 3rd respondent, learned counsel submitted that though the petitioner and the 3rd respondent are brothers, due to some personal enmity the petitioner made objection for granting electrical connection to his bore well and that no hindrance or danger would be caused due to the service connection.

4. Relying on the counter filed by the 1st respondent, learned Standing Counsel submitted that in view of the objection raised by the petitioner, the 3rd respondent was directed to get NOC from the petitioner or to arrange for a way leave as per 27(6) of the Distribution Code, 2004.

5. Heard learned counsel for the petitioner, learned Standing Counsel for TNEB and learned counsel for the 3rd respondent. Perused the material available on record.

6. During the last hearing learned Standing Counsel was directed to ascertain an alternative way to provide electrical connection to the 3rd respondent, without affecting the petitioner. As per the direction of this Court, today, learned Standing Counsel provided a feasibility alternate route sketch after serving a copy of the same to both the parties. The petitioner as well as the 3rd respondent were present in the Court and accepted the proposal for providing electricity connection to the third respondent, through overhead lines in the alternative route, as per the sketch submitted before this Court. The said sketch shall form part and parcel of this order.

7. The learned Standing Counsel for TNEB would submit that the Tamil Nadu Electricity Board has agreed to provide electricity connection in the alternative route, subject to payment of the difference amount of Rs.28,000/- (approximately) by the third respondent, within one week from the date of receipt of a copy of this order.

8. On receipt of such amount, the Tamil Nadu Electricity

Board is directed to provide electricity connection to the third respondent within a period of 8 weeks, therefrom.

9. The Writ Petition is disposed of, with the above observation. It is also open to the Tamil Nadu Electricity Board to make any variation or deviation, if required as per the Sketch, without affecting the right of the petitioner. Consequently, the connected MPs are closed. No costs.

07.02.2017

Index: Yes/ No

[Issue order copy on 13.02.2017]
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To

1. The Assistant Engineer
Tamil Nadu Electricity Board
Erisinampatti
Udumalpet Taluk
Tiruppur District.
2. The Superintending Engineer
Tamil Nadu Electricity Board
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D. KRISHNAKUMAR J.

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