

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2017

CORAM

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A.No.1391 of 2015

1.Mr.Ramasamy
2.Kalamani

... Appellants

Vs.

1.The Assistant Engineer (Rural-East),
Tamilnadu Generation & Distribution Corporation
Ltd., (TANGEDCO)
Udumalpet - 642 126,
Tiruppur District.

2.T.Kanagaraj

... Respondents

Prayer:

Writ appeal filed under Clause 15 of Letters Patent praying to
set aside the order passed in W.P.No.8261 of 2014 dated 09.10.2014.

For Appellants : Mr.B.Ramamoorthy
For Respondents : Mr.S.K.Raameshuwar for R1
Mr.S.Gunasekaran for R2

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

The Assistant Engineer (Rural-East), Tamil Nadu Generation

and Distribution Corporation Limited, (TANGEDCO), Udumalpet, granted service connection to the appellants in respect of the premises bearing No.7/189 in S.F.No.312/2. The connection was given in the year 2012 on the basis of the documents produced by the appellants. Thereafter, the second respondent submitted objection before the TANGEDCO contending that the appellants have no matter of right in respect of the land and the building and as such, the electricity connection should be disconnected. The jurisdictional Engineer issued notice to the appellants on 28.01.2014 calling upon them to produce the ownership certificate. The notice was challenged in W.P.No.8261 of 2014. The learned Single Judge agreed with the contention taken by the appellants. However, the learned Judge directed the appellants to produce the ownership certificate within a period of six months. Feeling aggrieved by the condition imposed by the learned Single Judge for production of ownership certificate, the appellants are before this Court.

2. We have heard the learned counsel for the appellants. We have also heard the learned Standing Counsel appearing on behalf of the first respondent and the learned counsel for the second respondent.

3. There is no dispute that the appellants have got service connection on the basis of the house-tax receipts and other documents produced by them. The connection was given in the year 2012. The second respondent appears to have submitted objection to the first respondent contending that the property absolutely belongs to him and as such the appellants have no matter of right, either to occupy the building or to avail service connection. The first respondent on the basis of the objection submitted by the second respondent issued notice to the appellants calling upon them to produce the ownership certificate. It was the said notice which was challenged before the writ Court.

4. The first respondent wanted the appellants to produce the title deed and the ownership certificate. The first respondent is not the competent authority to decide the title in respect of the property in question. Even if the appellants are not the title holders of the property still there is a provision under the TNERC Electricity Distribution Code to give connection after obtaining a bond. Clause 27(4) of the Distribution Code permits the TANGEDCO to grant service connection, in case the owner refuses to give consent. In such a case, the consumer shall produce proof for lawful occupation of the

premises. It is a matter of record that only on production of certain documents relating to the possession of the property, the first respondent granted service connection to the appellants. The appellants therefore satisfied the condition for giving them service connection. Even if it is made out that there is a dispute to the ownership of the property in question, still the appellants are entitled to enjoy the service connection till a decision is taken by the concerned Court in respect of title.

5. We are therefore of the view that the learned Single Judge was not correct in directing the appellants to produce the ownership certificate from the concerned authority.

6. The appellants are directed to execute a bond as per Annexure III of the TNERC Electricity Distribution Code agreeing to indemnify the TANGEDCO in the event of deciding ultimately that they are not the owners of the property. However, we make it clear that this order would not stand in the way of the parties from approaching the civil court to declare the title. It is needless to mention that any decree passed in the civil Court in respect of the ownership would have a bearing on the service connection given to the appellants.

7.The intra court appeal is allowed to the extent indicated above. No costs.

[K.K.S.,J.] [P.V.,J.]
24.10.2017

pri

Speaking Order/ Non Speaking Order

Index: Yes / No

Internet: Yes / No

To

- 1.The Assistant Engineer (Rural-East),
Tamilnadu Generation & Distribution Corporation
Ltd., (TANGEDCO)
Udumalpet - 642 126,
Tiruppur District.



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