

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4450 of 2017

R.Lakshmanaraj

.. Petitioner

-vs-

1. The Assistant Engineer
TANGEDCO
Poolanginar
Udumalpet
Tiruppur

2. V.Narayanasamy

3. N.Balasubramanian

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to supply electricity connection to the petitioner's house situated at D.No.1/94-A, Poolanginar Village, Udumalpet Taluk, Tiruppur within a stipulated period as fixed by this Hon'ble Court.

For Petitioner :: Mr.N.Umapathi

For Respondents:: Mr.S.K.Rameshuwar for R1

ORDER

This writ petition has been filed by Mr.R.Lakshmanaraj to issue a mandamus to the first respondent to supply electricity connection to the petitioner's house situated at D.No.1/94-A, Poolanginar Village, Udumalpet Taluk, Tiruppur. The petitioner is a tenant residing in the premises belonging to the respondents 2 & 3. Originally the property belonged to one Mr.Vengidusamy Naicker and his wife Mrs.Sayammal. After the demise of the said Vengidusamy Naicker, the property devolved between his wife and his three sons. Subsequently, on 9.10.85, the legal heirs of late Vengidusamy Naicker had partitioned the property. The petitioner is residing in the 1/4th property allotted to Mrs.Sayammal. On 17.3.2001, the said Mrs.Sayammal also executed a settlement deed covering her 1/4th share in favour of her grandson, namely, Mr.V.Ravikumar, who also in turn executed a maintenance agreement dated 1.4.2010 in favour of his mother Mrs.Nagaveni. After sometime, a sale deed was executed

on 28.12.2012 by Mr.V.Ravikumar in favour of the respondents 2 & 3. Thereafter the respondents 2 & 3 had tried to evict the petitioner. Hence a civil suit in O.S.No.33 of 2017 has been filed on the file of the learned District Munsif, Udumalpet seeking an injunction restraining the respondents 2 & 3 from interfering with the possession and enjoyment of the premises. Now the respondents 2 & 3, colluding with the first respondent, have disconnected the electricity service connection on 7.2.2017, which is used for domestic purpose. Hence the petitioner has come to this Court.

2. Learned counsel for the petitioner submitted that when the civil suit in O.S.No.33 of 2017 is pending on the file of the learned District Munsif, Udumalpet, the first respondent ought not to have taken steps to disconnect the service connection causing problems to the petitioner's family. As the right to electricity is a basic right, the petitioner is entitled to come to this Court keeping the civil suit pending. In support of his submission, he has also relied upon a judgment of this Court in the case of K.G.Ravindran v. The Assistant Engineer, Tamil Nadu Electricity Board, (2006) 3 MLJ 59.

3. But this Court is not inclined to entertain the writ petition for two reasons. Firstly, the petitioner, being a tenant of the premises bearing Door No.1/94-A, Poolanginar Village, Udumalpet Taluk, Tiruppur belonging to the respondents 2 & 3, had filed a suit in O.S.No.33 of 2017 on the file of the learned District Munsif, Udumalpet seeking a bare injunction against the respondents 2 & 3 not to evict him. During the pendency of the civil suit, if electricity connection is disconnected, he has to move the Court in which the suit is pending against the landlord. Since he has made an allegation that the respondents 2 & 3 had colluded with the first respondent-Electricity Board, therefore, that does not give him any right to come to this Court, as two parallel proceedings are not permissible. Secondly, when the petitioner has got a right to move the civil Court, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.4656 of 2017 is also dismissed. No costs.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

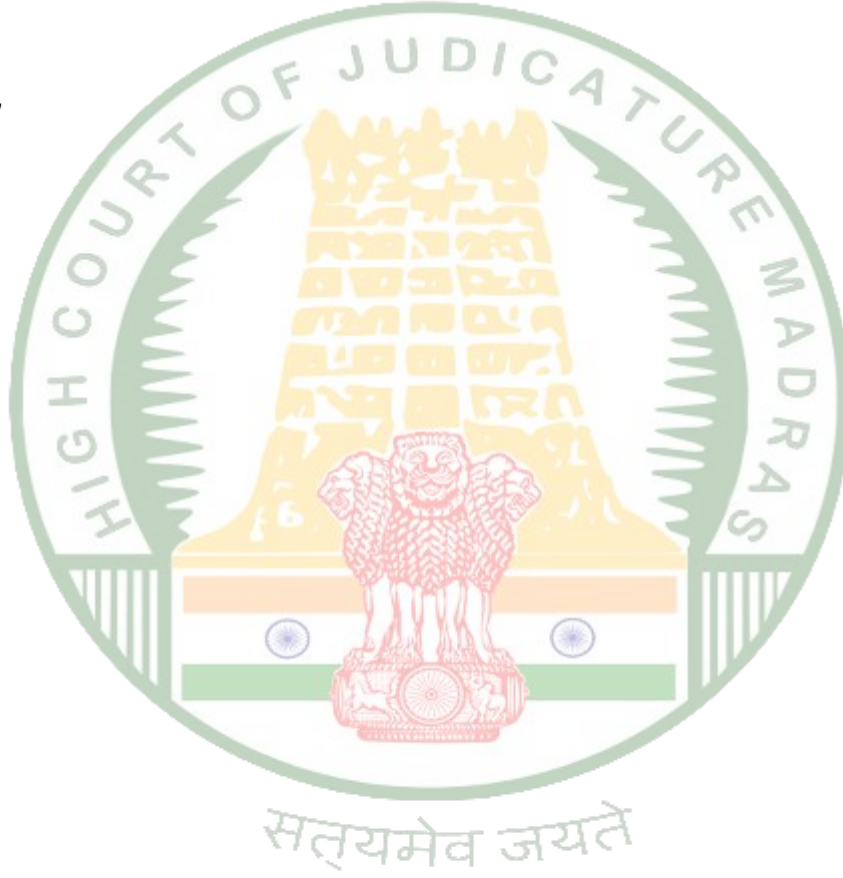
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To

The Assistant Engineer
TANGEDCO
Poolanginar
Udumalpet
Tiruppur

W.P.No.4450 of 2017

VGI (CO)
EU 16.3.17



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