

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.11772 of 2016

P.Jayalakshmi .. Petitioner

-vs-

1. Junior Engineer
TANGEDCO
Sidco Industrial Estate
Maraimalai Nagar, Chengalpattu
Kancheepuram District
2. Mrs.Pushpalatha
Wife of Chitti Babu
3. The Executive Engineer &
Administrative Officer
Tamil Nadu Housing Board
Jawaharlal Nehru Road
K.K.Nagar Division
Ashok Nagar,
Chennai 600 083
(R3 impleaded as per order dt.26.4.2016
in WMP 13245/16 in WP 11772/16) .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to disconnect electricity connection provided to second respondent premises bearing Plot No.343 EWS-A, Thirukachur Scheme, M.M.Nagar, Chengalpattu Taluk, Kancheepuram District comprised in Survey No.531/3B, Thirukachur Village admeasuring 0338 square feet registered on the file of Chengalpattu Joint Registrar II.

For Petitioner :: Mrs.Rita Chandrasekaran for
Mr.S.Ravichandran

For Respondents:: Mr.S.K.Rameshuwar for R1
Mr.D.Magesh for R2
Mr.V.Anandhamoorthy for R3

ORDER

This writ petition has been filed by Mrs.P.Jayalakshmi, W/o Poongavanam under Article 226 of the Constitution of India, praying issuance of a mandamus to the Junior Engineer, TANGEDCO, Sidco Industrial Estate, Maraimalai Nagar, Chengalpattu, the first respondent herein to disconnect the electricity service connection provided to the second respondent in Plot No.343 EWS-A, Thirukachur Scheme, M.M.Nagar, Chengalpattu Taluk, Kancheepuram District comprised in Survey No.531/3B, Thirukachur Village admeasuring 0338 square feet registered on the file of Chengalpattu Joint Registrar II.

2. Learned counsel for the petitioner submitted that the petitioner is the absolute owner of the vacant property situated at Plot No.343, EWS-A, Thirukachur Scheme, M.M.Nagar, Chengalpattu Taluk, comprised in Survey No.531/3B having an extent of 0338 square feet. Adding further, she submitted that when the above vacant plot was allotted to the petitioner by the Tamil Nadu Housing Board in proceedings bearing No.100526 dated 8.9.93, on payment of the entire installments, the Housing Board also had executed the sale deed in favour of the petitioner and the same was registered in Document No.399 of 2005 dated 10.1.2005 on the file of the Sub Registrar-II, Chengalpattu. A perusal of the sale deed clearly shows that the petitioner is the absolute owner of the plot in question and she has not put up any construction since its purchase. As she is a resident of Chennai, she was not able to frequently visit her plot. However, on 6.9.2015, when she visited her plot to find out whether there was any encroachment, she was disappointed to see the illegal construction made thereon by the second respondent in an illegal manner by availing the electricity service connection from the first respondent. Therefore, she gave a representation on 12.9.2015 to the first respondent followed by the reminder on 16.10.2015 for disconnecting the electricity service connection provided to the second respondent. Finding no response, one another complaint was given to the Executive Engineer, TANGEDCO, Maraimalai Nagar on 13.1.2016. Even after conducting enquiry by the Executive Engineer, still no steps have been taken. Subsequently, a criminal complaint was also given and the same was registered in F.I.R.No.59 of 2016 on the file of Maraimalai Nagar Police Station. She also submitted that the second respondent has filed a civil suit in O.S.No.46 of 2016 on the file of the learned District Munsif, Chengalpattu seeking a decree of bare injunction in respect of the Plot No.345 EWS-A Type measuring an extent of 338 sq.ft., comprised in Survey No.531/3B (part) in the layout approved by the Tamil Nadu Housing Board. When the suit filed by the second respondent

also does not relate to the petitioner's plot No.343 EWS-A which is also situated in Survey No.531/3B, a direction may be given to the first respondent to disconnect the electricity service connection provided to the second respondent, she pleaded.

3. A detailed counter affidavit has been filed by the second respondent. The second respondent in her counter affidavit has taken a stand that under a registered sale deed dated 14.11.2013 bearing Document No.13549 of 2013 on the file of the Sub Registrar-II, Chengalpattu, she purchased the landed property from M/s Parameswari and Maragadam, being the legal heirs of one Rajasekaran, who died on 25.4.2007, leaving behind his wife-Parameswari, minor children-RAjeswari, Mageswari, Manikandan and his mother-Maragadam. Moreover, the said Rajasekaran had purchased the property from one Mrs.Revathy, W/o Lakshmikanthan, who was the power agent of Mr.Arokiasamy. It is also stated that the Plot No.345, EWS(A) in Survey No.531/3B (part) at Maraimalai Nagar Municipality, No.74, Thirukachur village, Chengalpattu Taluk, Kancheepuram District was allotted to one Mr.Arokiasamy by the Tamil Nadu Housing Board under a lease-cum-sale agreement dated 10.10.94.

4. No doubt, the Plot No.345 EWS(A) in Survey No.531/3B (part) at Maraimalai Nagar Municipality having an extent of 338 sq.ft., purchased by Mrs.Pushpalatha, W/o Chitti Babu, the second respondent has nothing to do with the Plot No.343 EWS-A owned by the petitioner. But it appears that the second respondent has put up construction in the petitioner's plot also, which was lying vacant. However, the second respondent had filed a civil suit in O.S.No.46 of 2016 before the learned District Munsif, Chengalpattu for a bare injunction. Therefore, whether the second respondent has encroached into the plot purchased by the petitioner in Plot No.343 EWS(A) situated in Survey No.531/3B has to be decided by the learned District Munsif, Chengalpattu on merits and in accordance with law. For deciding the said issue, the writ petition cannot be a substitute.

5. In the light of the above, this Court, without going to the merits of the matter, hereby directs the learned District Munsif, Chengalpattu, who is seized of O.S.No.46 of 2016, to take up the civil suit on board and decide the same on merits and in accordance with law. Needless to mention that the learned District Munsif, Chengalpattu shall appoint an Advocate Commissioner and shall also keep in mind the assistance of a competent surveyor also while deciding the issue. Since the pleadings are complete, the learned District Munsif, Chengalpattu is directed to dispose of the O.S.No.46 of 2016 on merits and in accordance with law within a period of five months from the date of receipt of a copy of this order. With this

observation, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The District Munsif
Chengalpattu
2. The Junior Engineer
TANGEDCO
Sidco Industrial Estate
Maraimalai Nagar, Chengalpattu
Kancheepuram District
3. The Executive Engineer &
Administrative Officer
Tamil Nadu Housing Board
Jawaharlal Nehru Road
K.K.Nagar Division
Ashok Nagar
Chennai 600 083

+1cc to Mr.V. Anandha Murthy, Advocate, S.R.No.6574
+1cc to Mr.S.K. Rameshuwa, Advocate, S.R.No.6523
+1cc to Mr. D. Magesh, Advocate Sr.No.6081
+1cc to Mr. S. Ravichandran, Advocate Sr.No.6666

ssi (CO)
md (28/02/2017)

W.P.No.11772 of 2016

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