

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.6.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Writ Appeal No.405 of 2017

S.Vedhamuthu .. Appellant

Vs.

1. The Assistant Executive Engineer (O&M)
Tamil Nadu Electricity Board
Gobi Electricity Distribution Circle
Nambiyur (West)
Nambiyur 638 458
Erode District.
2. The Tahsildar
Gobichettipalayam Taluk
Gobichettipalayam
Erode District.
3. S.Devasagayam ... Respondents

Appeal under Clause 15 of the Letters Patent filed against the order dated 09.02.2017 made in W.P.No.30281 of 2016.

Prayer in WP.No.30281/2016:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus Directing the first respondent to issue Electricity Service Connection to the residential house at Door No. 70/59 [S.F.No. 1296/29] in C.S.I. Street Nambiyur Village Gobichettipalayam Taluk Erode District .

For Appellant : Mr.V.Chandrasekaran

For Respondent-1 : Mr.S.K.Rameshuwar

For Respondent-2 : Mr.P.S.Sivashanmugasundaram
Spl. Govt. Pleader

J U D G M E N T
(Delivered by Huluvadi G.Ramesh, J)

The writ appeal is directed against the order dated 09.02.2017 made in W.P.No.30281 of 2016.

2. Heard the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent.

3. The appellant submitted a representation to the first respondent to provide temporary electricity connection to his newly constructed residential house at Door No.70/59 (S.F.No.1296/22) in CSI Street, Nambiyur Village, Gobichettipalayam Taluk, Erode District, which was in possession and enjoyment of his mother by paying house tax since 1963 and assigned in favour of him on 17.11.1976. The first respondent required the appellant to produce ownership certificate in respect of the residential house and site, in view of a pendency of suit before the civil Court, filed by the third respondent for declaration of title. Therefore, the appellant made a representation to the second respondent to issue ownership certificate. But, the second respondent did not issue the said certificate. Hence, the appellant filed writ petition.

4. The learned single Judge, taking note of the fact that a suit is pending before the civil Court between the appellant and the third respondent with regard to the alleged encroachment of the land of the third respondent by the appellant, dismissed the writ petition, directing the civil Court concerned either to pass orders on the interim applications or to dispose of the suit.

5. Relying upon the judgment of the Apex Court in Civil Appeal No.7572 of 2011 dated 02.9.2011, it is contended by the appellant that it is the duty of the respondent Board to give supply of electricity to the premises within one month of receipt of application requesting for supply. Further, the appellant contended that there is no impediment for the respondent Board to provide temporary electricity connection, which may be subject to the outcome of the civil suit.

6. Admittedly, there is a civil suit between the appellant and the third respondent, pending before the civil Court with regard to title dispute. However, it is to be noted that electricity is a matter of necessity. Therefore, the respondent Board cannot refuse to provide electricity connection. But, at the same time, providing of supply does not mean that it should be absolute and unconditional.

7. We are, therefore, of the considered opinion that the respondent Board may be directed to consider providing of electricity connection to the appellant premises. Accordingly, we direct the respondent Board to consider the application of the appellant within one month from the date of receipt of a copy of this order, which shall be subject to the result of the civil suit pending. If any adverse order is passed by the civil Court, the respondent Board is at liberty to take action as per the order.

8. The writ appeal is disposed of accordingly. However, there shall be no order as to costs. Consequently, CMP No.6434 of 2017 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Assistant Executive Engineer (O&M)
Tamil Nadu Electricity Board
Gobi Electricity Distribution Circle
Nambiyur (West)
Nambiyur 638 458
Erode District.

2. The Tahsildar
Gobichettipalayam Taluk
Gobichettipalayam
Erode District.

+1cc to M/s.S.K.Raameshuwar, Advocate SR.No.45114
+1cc to M/s.V.Chandesekar, Advocate SR.No.44939
+1cc to Government Pleader SR.No.45779

W.A.No.405 of 2017.

NRI (CO)
GN(12/07/2017)