

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.222 of 2017

A.Purusothaman

.. Petitioner

-vs-

1. The Junior Engineer
TANGEDCO
Thirupadiripuliyur
Cuddalore 607-002

2. The Assistant Executive Engineer
Operation & Maintenance, TANGEDCO
Koil Street, Thirupadiripuliyur
Cuddalore 607-002

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 and 2 to forthwith accept the application and extend Domestic Electricity Supply to the petitioner's premises at No.2, Mettu Street, Suranayakkansavadi, Cuddalore-2, as per Tamil Nadu Electricity Code and Regulations and that of the Terms and Conditions of Supply of Electricity without insisting upon the No Objection Certificate.

For Petitioner :: Mr.L.Chandrakumar

For Respondents :: Mr.M.Varunkumar

ORDER

The petitioner is a permanent resident of No.2, Mettu Street, Suranayakkansavadi, Cuddalore and the said property belongs to the petitioner's parents, who were blessed with ten children. As the petitioner's family is a Hindu Undivided Family, a civil dispute with regard to the partition of the said property is under the active consideration. But after the demise of the petitioner's parents, namely, late A.Arumugam and late Tmt.Gnanam, he has constructed a portion on the first floor with proper approval and acknowledgment from the other joint owners. Since the construction of a portion in the first floor has been completed, domestic electricity service connection was sought for by moving an appropriate application to the

respondents. Before making the application, on the request of the petitioner, the Village Administrative Officer also has made a spot inspection and thereupon he has also issued a certificate dated 7.12.2016 stating that the petitioner is the lawful occupant of the premises consequent to the demise of his parents. When the petitioner had submitted the application with all the documents, the same was returned on 14.12.2016 by the Junior Engineer, TANGEDCO, Thirupadiripuliyur directing the petitioner to produce the No Objection Certificate from all the members of the Hindu Undivided Family to process the application. Since the denial of electricity service connection to the petitioner is against the well established legal position, he has been advised to come to this Court. Taking support from the judgment of this Court in the case of A.Muthusamy and others v. The Assistant Engineer, Tamil Nadu Electricity Board, K.T.C.Nagar, V.M.Chathiram, Tirunelveli, 2009 (4) CTC 606, it was submitted that the electricity service connection can be given to persons who are in occupation of premises even if their ownership is under dispute provided they furnish indemnity bond and pay necessary fee, etc. In the present case, when the petitioner is admittedly a permanent resident of No.2, Mettu Street, Suranayakkansavadi, Cuddalore, which belongs to the parents of the petitioner, who are no more, after putting up construction of a portion in the first floor, he has made the application along with the copy of the certificate issued by the Village Administrative Officer dated 7.12.2016 seeking domestic electricity service connection. Therefore the respondents cannot return the application submitted by the petitioner.

2. The learned standing counsel, taking notice on behalf of the respondents, on instructions submitted that he has come to know that the petitioner's premises is already having two electricity service connections, one in the name of his mother (since deceased) and another in the name of his brother and only because of the objection made by one of the members in the family, the application has been returned.

3. Heard the learned counsel for the parties.

4. Although there are two electricity service connections provided in the petitioner's premises, one in the name of his mother and another in the name of his brother, as the petitioner had put up construction of a portion in the first floor, when he sought for electricity service connection, this Court finds that there is no impediment for the respondents to effect the service connection in the portion constructed/occupied by the petitioner subject to furnishing of the indemnity bond and paying of the necessary charges, etc. This apart, Clause 27(4) of the Tamil Nadu Electricity Distribution Code reads as follows:-

"27(4). An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out off effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

5. A plain reading of the above clause shows that even an intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this Code from the owner of the premises for availing the supply or in the event of the owner not being available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III of this Code indemnifying the licensee against any loss on account of disputes arising out off effecting service connection to the occupant. Therefore, when Clause 27(4) of the Tamil Nadu Electricity Distribution Code clearly says that even an intending consumer who is not the owner of the premises is entitled to get the electricity service connection, provided he produces proof of his being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III of this Code indemnifying the licensee against any loss on account of disputes arising out off effecting service connection to the occupant, the respondents cannot refuse the prayer of the petitioner.

6. In the present case, the petitioner is a permanent resident of No.2, Mettu Street, Suranayakkansavadi, Cuddalore and after putting up construction of a portion in the first floor, has moved an application seeking separate electricity service connection to the said premises along with the certificate issued by the Village Administrative Officer dated 7.12.2016, which also says that the petitioner is a permanent resident and the occupant of the premises. Secondly, he has also undertaken to execute the indemnity bond and pay the necessary charges, etc. Therefore, this Court has no hesitation to direct the respondents to provide the electricity service connection in the portion of the first floor occupied by the petitioner. In fact, a similar issue was also considered by this Court in the case of A.Muthusamy and others v. The Assistant Engineer, Tamil

Nadu Electricity Board, K.T.C.Nagar, V.M.Chathiram, Tirunelveli, 2009 (4) CTC 606, wherein it has been held that the electricity service connection can be given to persons who are in occupation of premises even if their ownership is under dispute, provided they furnish indemnity bond and pay necessary fee, etc.

7. In the light of the above, the writ petition stands allowed with a direction to the respondents to accept the application of the petitioner and provide the electricity service connection to the petition premises, without insisting upon the No Objection Certificate, subject to the execution of the indemnity bond and payment of necessary charges by the petitioner, within a period of three weeks from the date of receipt of a copy of this order. Consequently, W.M.P.No.214 of 2017 stands closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ss

To

1. The Junior Engineer
TANGEDCO
Thirupadiripuliyur
Cuddalore 607 002
2. The Assistant Executive Engineer
Operation & Maintenance, TANGEDCO
Koil Street, Thirupadiripuliyur
Cuddalore 607 002

+1 cc to Mr.L.Chandrakumar Advocate sr 1258/17

+1 cc to Mr.S.Varunkumar Advocate sr 1399/17

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