

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2017

Coram

The Hon'ble Mr.Justice M.M.SUNDRESH

W.P. Nos.2472 to 2484 of 2015

K.Latha ... Petitioner in WP.2472/2015
A.H.Hussain Ahmed ... Petitioner in WP.2473/2015
V.K.Rajan ... Petitioner in WP.2474/2015
H.Vasantha ... Petitioner in WP.2475/2015
A.M.Kamarunisha ... Petitioner in WP.2476/2015
B.Jeenath Nisha ... Petitioner in WP.2477/2015
G.Balaji ... Petitioner in WP.2478/2015
A.R.Abdul Kuddus ... Petitioner in WP.2479/2015
I.Abdul Samad ... Petitioner in WP.2480/2015
M.Akbar ... Petitioner in WP.2481/2015
S.Siva Kumar ... Petitioner in WP.2482/2015
H.Khaleel Basha ... Petitioner in WP.2483/2015
S.Mohammed Ibrahim ... Petitioner in WP.2484/2015

Vs

1.The Assistant Engineer,
Tamil Nadu Electricity Board, (I&M),
Mangadu Division, Se.Mi.Pa Taluk (South)/
TNEB, Mangadu, Chennai -112.

2.The Tamil Nadu Electricity Board,
Rep., by its Chairman,
Anna Salai, Chennai.

3.The Tamil Nadu Wakf Board,
Rep., by the Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai -1.

... Respondents in all WPs

Prayer:-Writ Petitions filed under Article 226 of the
Constitution of India praying to issue Writs of Mandamus, to

direct the first respondent to grant power connection to the petitioners property respectively at Nos.409, 325, 30, 122, 213, 491, 69, 553, 386, 365, 116, 389, 452, respectively Syed Sadiq Nagar, Mangadu, Chennai -122, without insisting upon NOCs by the Wakf Board.

For petitioner .. Ms.Kowser Nissar

For Respondent .. Mr.S.K.Rameshwar for R1

Mr.P.Gunaraj for R2

No Appearance for R3

COMMON ORDER

With the consent of the learned counsel appearing on either side, the Writ Petitions are taken up for final disposal.

2. Despite the matter having adjourned on last two occasions, none appears for the third respondent. Today also, the matter stood passed over and now taken up.

3. The petitioners sought for service connection, which was not acceded to on the ground that no objection certificate is required from the Wakf Board.

4. The learned counsel for the petitioners has made reliance upon the judgment of the Division Bench of this Court in W.P.Nos.2339 to 2345 of 2012, [M.Shahabudeen vs. The Assistant Engineer, TNEB, & Ors.], dated 19.06.2013, and another orders passed by the learned Single Judge in W.P.No.25310 of 2013, [K.B.Mohammed Hussain vs. The Assistant Engineer TNEB & Ors.], dated 17.09.2013, and W.P.No.21433 of 2013, [A.Fathima vs. The Assistant Engineer TNEB & Ors.], dated 25.09.2013.

5. The learned counsel appearing for the Electricity Board would submit that the service connection has not been given because of the objection raised by the respondent Wakf Board.

6. This Court in W.P.No.21433 of 2013 dated 25.09.2013, after taking into consideration of Regulation 247(4) of the Tamil Nadu Electricity Distribution Code, 2004, and by relying upon the judgment of the Division Bench was pleased to pass the following order against the very same respondent Wakf Board, which reads as follows:-

7. In W.A.Nos.2339 to 2345 of 2012, similarly placed persons have sought for supply

of electricity. An objection has been raised by the Wakf Board, contending inter alia that the above mentioned Trust is not the owner of the property and that "No Objection Certificate" has to be issued only by the Wakf Board. Objections have been made regarding the occupancy of the petitioners, claiming themselves as tenants under the Trust, which according to the Wakf Board, is an unauthorised person. Initially, on 29.10.2012, the Hon'ble First Bench, has passed the following interim order:-

"Admittedly, the property in question is a wakf property, indisputably, even though, in the absence of any objection from the side of the landlord, a tenant can get electricity supply. But, here is a case where the property is a wakf property and the tenants, who are in possession without paying any rent, cannot be given any blanket order directing supply of electricity even without no objection from the side of the Wakf Board. We, therefore, direct all the respondents to produce before us the receipts showing payment of upto date rent. Put up after three weeks. In the mean time, status quo shall be maintained."

8. Later on, W.A.Nos.2339 to 2345 of 2012 have been finally disposed of on 19.06.2013. The order reads thus:

"These Writ Appeals are directed against the common order dated 14.08.2012 passed by the learned single Judge in W.P. Nos. 9172 to 9178 of 2012 whereunder the writ petitions filed by the private respondents seeking direction to grant power connection, were disposed of with a direction to the official respondents to consider their applications as per Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004.

2. Heard the learned counsel appearing for the parties and perused the materials on record.

3. From the pleadings and the materials produced, it is seen that the respective third respondent in each writ appeal / the writ petitioner are

in possession of the property in dispute. It is the claim of the appellant that he is the owner of the property and the writ petitioners are encroachers. Prima facie, there are materials to show that the writ petitioners are in possession as tenants and the property belongs to the Wakf Board. But, however, the aforesaid opinion is only for the purpose of deciding these writ appeals and title of the property is not decided. From the common counter affidavit filed by the third respondent and the contentions raised on behalf of the respondents, it is seen that the appellant is neither the President of the Managing Committee of the Wakf or Muthawalli. Moreover, several allegations have been made against the appellant. Be that as it may, the fact remains that the writ petitioners are in possession of the disputed property and had applied for electricity connection and they were ordered to be given connection, subject to fulfilling certain conditions laid down in Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004. It is significant that the order of the learned single Judge has not been challenged by the Wakf Board, who is stated to have been the owner of the property.

4. Keeping in view the aforesaid factual circumstances, we do not find any error or illegality in the order of the learned single Judge directing the Tamil Nadu Electricity Board to give electricity connection on satisfying Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, which mandates the writ petitioners to produce proof to show that they are in lawful occupation of the premises.

Accordingly, these Writ Appeals fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

9. Subsequently, in the light of the above judgment, when Writ Petition Nos.23392 and 23393 of 2013, praying for a Writ of Mandamus directing the 1st respondent to provide the electricity connection to the petitioners' property therein, without insisting on "No Objection Certificate" from the 2nd respondent, this Court allowed the Writ Petitions, by order dated 05.09.2013, and that a direction has been issued to the first respondent to provide electricity service connection to the petitioners therein within a period of two weeks from the date of receipt of a copy of that order.

10. Facts in the above Writ Petitions are similar to the one pleaded in the present Writ Petition. Therefore, the judgments rendered in W.A.Nos.2339 to 2345 of 2012 dated 19.06.2013, and Writ Petition Nos.23392 and 23393 of 2013 dated 05.09.2013 squarely apply to the case on hand also. The objections raised cannot be sustained.

11. Hence, the Writ Petition is allowed and a direction is issued to the first respondent to provide electricity service connection to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No Costs. Consequently, the connected Miscellaneous Petition is closed.

7. Taking note of the above, the Writ Petitions stand allowed on the above very same terms. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

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Sub Assistant Registrar

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To

1.The Assistant Engineer,
Tamil Nadu Electricity Board, (I&M),
Mangadu Division, Se.Mi.Pa Taluk (South)/
TNEB, Mangadu, Chennai -112.

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Rep., by its Chairman,
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Rep., by the Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai -1.

+13 ccs to M/s.N.A.Nissar Ahmed, Advocate SR.No.20029, 20477,
20481,20478,20482,20475,20479,20484,20483,20484,20476,20480,2048
5,20486.

+1cc to Mr.S.K.Rameshuwar, Advocate SR.No.20724

W.P. Nos.2472 to 2484 of 2015

NR II (CO)
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