

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.2981 of 2011

C.Loganathan

.... Petitioner

Versus

- 1.The Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Sankari,
Salem District.
- 2.The Junior Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Sankari,
Salem District.
- 3.The Chief Engineer,
Erode Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Erode.

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a certiorarified mandamus to call for the records relating to the impugned order made in Letter No.EE/O&M/Sank/Va.Voo/Ko.Th.a.Oo.Sa.No.026/2010 dated 20.10.2010 on the file of the first respondent herein and quash the same and consequently direct the respondents 1 and 2 to give electricity service connection for agricultural purpose to the petitioner's well in S.No.290/5A1, Mestri Kadu, Sankari Village, Sankari Taluk, Salem District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.K.Rameshwar

ORDER

The petitioner has approached this Court seeking the following relief:

' ' issuance of a certiorarified mandamus to call for the records relating to the impugned order made in Letter No.EE/O&M/Sank/Va.Voo/Ko.Th.a.Oo.Sa.No.026/2010 dated 20.10.2010 on the file of the first respondent herein and quash the same and consequently direct the respondents 1 and 2 to give electricity service connection for agricultural purpose to the petitioner's well in S.No.290/5A1, Mestri Kadu, Sankari Village, Sankari Taluk, Salem District' '.

2. The case of the petitioner is as follows:

According to the petitioner, he is the absolute owner of the property measuring to an extent of 6.50 acres comprised in S.F.No.290, now sub-divided as S.F.No.290/5A1, Sankari Village, in which, the petitioner had dug a well to irrigate the lands in the year 1974. According to him, he submitted an application on 19.04.1976 to the then respondent Electricity Board for getting electricity service connection. On receipt of his application, the second respondent registered the same under No.218/1976. Thereafter, the Divisional Engineer, Mettur Electricity Scheme in his proceedings dated 01.01.1979, directed the petitioner to get ready with motor room and pump set alongwith invoice and bills. In the mean while, it appears that the third parties have filed a suit in O.S.No.421 of 1988 before the District Munsif Court, Sankari praying for the relief of preliminary injunction restraining the defendants therein from erecting electric posts in the plaintiff's land. The said suit was filed on 23.04.1986 and the same was dismissed for non prosecution on 30.07.1990. In view of the pendency of the suit, no action was taken by the respondent Board in providing service connection to the petitioner herein and the two others in the neighborhood.

3. After the dismissal of the suit, it appears that the petitioner had sent a representation to the first respondent on 30.08.1992 and in response to the same, the Superintending Engineer, Mettur Electricity Distribution Circle was directed by the Board to effect electricity connection to the petitioner's well in S.F.No.290. Thereafter, number of reminders were sent to the respondents over a period of time. But there was no response officially, the petitioner had sought for information as to the status of electricity service connection by sending an application under RTI Act. According to the petitioner, the Board officials had admitted the receipt of application and for

which, an estimate was prepared on 30.01.1986, which is reflected in the proceedings in S.F.No.290.

4. While so, in response to the number of representations, finally by a communication dated 20.10.2010, the petitioner was informed that in the ordinary course service connection could not be given to the petitioner. The said communication is put to challenge in the present writ petition.

5. Mr.N.Manokaran, learned counsel for the petitioner would submit that although electricity service connection had been sought way back in the 1976 for the reasons not known to the petitioner, his application has been kept pending for all these years and finally by impugned communication dated 20.10.2010, the petitioner was informed that in the ordinary course the service connection sought could not be given. The petitioner was at loss to understand as to what was the basis for such communication issued by the Board officials denying him the service connection.

6. Upon notice, Mr.S.K.Rameshwar, learned counsel entered appearance for the respondents and filed a detailed counter affidavit. According to the counter affidavit, it is stated that since the original application which was said to have been submitted as early as on 1976, cannot be traced as the same was not available and the respondent Board did not find any supporting material which would vouch for the fact that such application had been submitted by the petitioner in the year 1976. In the absence of clinching material, the Board was unable to process the application.

7. Today, when the matter is taken up for hearing, Mr.S.K.Rameswar, the learned counsel for the petitioner would submit that since it was disclosed that the original application and the other documents filed by the petitioner were not available due to passage of time, he would suggest the petitioner to submit a fresh application and the same may be considered by the Board. In the said circumstances, an application was filed by the petitioner in a proper form on 04.11.2017 and the learned counsel for the petitioner would submit that the application was handed over to the authorities concerned in person. In the said circumstances, he would submit that this application will be considered as sequence to the original application, which was submitted by the petitioner as early as on 19.04.1976. At this, the learned counsel for the respondent Board objected to stating that the petitioner would have to wait for his turn before he could get electricity service connection alongwith others.

8. This Court has considered the submissions made by the learned counsel for the petitioner and the objections raised by

the respondent Board. This Court is of the considered view that the objections raised on behalf of the respondent Board cannot be countenanced both in law and on facts for the reason that it was not the fault of the petitioner having not got electricity service connection for all these years. A duty was cast upon the respondent Board to process the application if the same was otherwise in order. Failure on the part of the respondent Board, cannot result in negation of right of the petitioner to have electricity service connection at the relevant time. Although the learned counsel would submit that no documents were submitted by the petitioner in support of his claim, however, it is an admitted fact that an estimate was prepared for installing electricity service connection way back in the year 1976, which would prove the fact that there was an application submitted by the petitioner prior to the said date.

9. In such view of the matter, the present application filed by the petitioner can be considered as the one arising out of the earlier application submitted by the petitioner in the year 1976 and accord appropriate seniority by considering his application as submitted in the year 1976. The respondents are directed to process the application as if it is submitted in the year 1976 and grant electricity service connection to the petitioner if the same is otherwise in order. Such exercise shall be completed by the respondents within a period of two months from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

1.The Executive Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Sankari,
Salem District.

2.The Junior Engineer,
Operation and Maintenance,
Tamilnadu Electricity Board,
Sankari,
Salem District.

3.The Chief Engineer,
Erode Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Erode.

+ 1 cc to Mr.N.Manokaran Advocate,SR.78943

+ 1 cc to Mr.S.K.Rameshwar Advocate,SR.78764

W.P.No.2981 of 2011

SV(CO)
NR 14/12/2017



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