

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1693 of 2017

N.Suresh

.. Petitioner

-vs-

1. The Chairman
Tamil Nadu Electricity Board
Mount Road
Chennai 600 002
2. The Superintending Engineer
Tamil Nadu Electricity Board
Royapuram
Chennai 600 013
3. The Chief Engineer
Tamil Nadu Electricity Board
Mount Road
Chennai 600 002
4. Mr.Rajesh Kannan ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 3 to effect separate service connection to the shop occupied by the petitioner herein situated at No.15-D/New No.60, East Kalmandapam Road, Royapuram, Chennai 600 013 on the indemnity bond executed by the petitioner in the form prescribed by the Electricity Board, following the due procedure of law prescribed in The Electricity Act, 2003.

For Petitioner :: Mr.G.Kalyan Jhabakh

For Respondents :: Mr.P.R.Dhilip Kumar for R1 to 3

ORDER

The petitioner has come to this Court seeking a writ of mandamus, directing the electricity authorities, namely, the Chairman, Tamil Nadu Electricity Board, the Superintending Engineer, Tamil Nadu Electricity Board, Royapuram and the Chief Engineer, Tamil Nadu Electricity Board, the respondents 1 to 3 to effect separate service connection to the shop occupied by the petitioner situated at No.15-D/New No.60, East Kalmandapam

Road, Royapuram, Chennai 600 013 on the indemnity bond executed by the petitioner in the form prescribed by the Electricity Board, following the due procedure of law.

2. Learned counsel for the petitioner submitted that the premises bearing Door No.15-D/New No.60, East Kalmandapam Road, Royapuram, Chennai has been let out to the petitioner by the landlord Mr.Rajesh Kannan, the fourth respondent herein. Pursuant thereto, he has been running a jewellery shop under the name and style of 'Aarthi Thanga Maligai' by paying a monthly rent of Rs.17,567/-. Since the fourth respondent in the year 2010 pressurised the petitioner to sign a lease agreement containing unreasonable terms that he should vacate and handover possession within eleven months time, for which the petitioner did not agree, as a result the fourth respondent-landlord, it is pleaded, started harassing the petitioner and also resorted to various methods to evict him. From 2012, the landlord also stopped receiving the monthly rent from the petitioner. Therefore, R.C.O.P.No.17 of 2014 was filed seeking permission to deposit the rent, which is also pending on the file of the XII Small Causes Court, Chennai. During the pendency, the electricity service connection was disrupted illegally on 9.12.2013 and again on 26.12.2013. Hence a complaint was given against the landlord before the Inspector of Police, N1 Royapuram Police Station and C.S.R.No.422/2013/CSR/N1PS dated 26.12.2013 was also issued. Thereafter, the petitioner also filed a civil suit in O.S.No.2101 of 2013 on the file of the XIV Assistant City Civil Court, Chennai seeking a bare injunction not to interfere with his peaceful possession and enjoyment of the petition premises and also not to interfere with the facility of electricity supply to the premises and the said suit was allowed on 17.4.2014. Subsequently, he filed R.C.O.P.No.18 of 2014 for restoration of the electricity supply and the same is also pending on the file of the XII Small Causes Court, Chennai. As the fourth respondent-landlord has cut the electricity service connection repeatedly even after passing of the permanent injunction in O.S.No.2101 of 2013, the petitioner approached the N1 Royapuram Police Station and C.S.R.No.439/2016 dated 13.7.2016 was also issued to him by the said police. In addition thereto, he has also filed M.P.No.371 of 2016 in R.C.O.P.No.18 of 2014 for restoration of the electricity supply, which is also pending on the file of the XII Small Causes Court, Chennai for orders. Since the electricity lines were switched off by the fourth respondent on 23.12.2016, after giving a complaint to N1 Royapuram Police Station regarding the same, a legal notice was also issued to the fourth respondent for obtaining his consent for getting a separate electricity service connection. But the fourth respondent refused to give his consent in his reply to the legal notice. Therefore the petitioner's application filed in the month of March, 2014 to the respondents 1 to 3 for giving a separate electricity service connection to the petitioner's premises has to be answered. On that basis, the writ petition may be allowed, he pleaded.

3. This Court finds no justification for the petitioner to approach this Court, for the following reasons. There appears to be a dispute between the landlord and the tenant in respect of Door No.15-D/New No.60, East Kalmandapam Road, Royapuram, Chennai. When the fourth respondent-landlord had called upon the petitioner-tenant to execute a lease agreement containing a clause that he should vacate and handover the petition premises within a period of eleven months, it is the admitted case of the parties that the petitioner being a tenant of the said premises under Mr.Rajesh Kannan has not come forward to execute the lease agreement in 2010. Consequently, when the landlord also refused to receive the rent, the petitioner filed R.C.O.P.No.17 of 2014 seeking permission to deposit the rent, which is pending on the file of the XII Small Causes Court, Chennai. Again after giving a complaint against the fourth respondent-landlord before the Inspector of Police, N1 Royapuram Police Station and the consequent issuance of C.S.R.No.422/2013/CSR/N1PS dated 26.12.2013 by the police, he has filed one another civil suit in O.S.No.2101 of 2013 on the file of the XIV Assistant City Civil Court, Chennai seeking a prayer not to interfere with his peaceful possession and enjoyment of the petition premises and also not to interfere with the facility of electricity supply to the premises. Admittedly the said suit was allowed by the learned XIV Assistant Judge, City Civil Court on 17.4.2014. Subsequently, he has also filed one another R.C.O.P.No.18 of 2014 for restoration of the electricity supply, which is also pending on the file of the XII Small Causes Court, Chennai. In these circumstances, it is the further claim of the petitioner that the electricity service connection was repeatedly disconnected by the fourth respondent-landlord even after he got a judgment in O.S.No.2101 of 2013 restraining the landlord, his men, agents, representatives not to interfere with his peaceful possession. For restoring the electricity service connection, the petitioner-tenant has also filed a M.P.No.371 of 2016 in M.C.O.P.No.18 of 2014, which is also pending. Moreover, on the complaint given by the tenant against the landlord before the Inspector of Police, N1 Royapuram Police Station regarding the same issue, again C.S.R.No.1157/2016 dated 29.12.2016 has been issued. Therefore, when the issue is pending in R.C.O.P.No.18 of 2014 and that a decree of permanent injunction was also passed by the civil Court earlier, which has not been complied with by the landlord for the reasons best known to him, the petitioner cannot come to this Court seeking the very same relief without working out his remedy in the manner known to law. Although the learned counsel for the petitioner has relied upon a judgment of this Court in the case of V.Elangovan v. The Assistant Divisional Engineer, Madras Electricity Systems, 1990-2-LW-339 to say that during the pendency of the Rent Control Original Petition, this Court can entertain the writ petition for giving a direction to the electricity authorities to give a separate electricity service connection, this Court hardly finds any applicability of the said judgment

to this case, since it is a well settled legal position that no parallel proceedings can be entertained for the same relief. Secondly, in the present case, admittedly the petitioner being a tenant of the Door No.15-D/New No.60, East Kalmandapam Road, Royapuram, Chennai has filed two R.C.O.P.'s, namely, R.C.O.P.No.17 of 2014 for depositing the rent and R.C.O.P.No.18 of 2014 for restoration of the electricity service connection, which are pending on the file of the XII Small Causes Court, Chennai. Thirdly, the civil suit filed in O.S.No.2101 of 2013 on the file of the XIV Assistant City Civil Court, Chennai was decreed in his favour restraining the fourth respondent not to interfere with his peaceful possession of the petition premises. Therefore, when the issue for restoration of the electricity service connection is pending before the civil Court in M.P.No.371 of 2016 in R.C.O.P.No.18 of 2014, coming to the High Court with a prayer to issue a mandamus to the respondents 1 to 3 to give a separate electricity service connection is nothing but a sheer and gross misuse of the process of law. When the dispute between the tenant and the landlord is pending in various Courts, in my considered opinion, the petitioner tenant ought not to have come to this Court. Hence this Court is not inclined to entertain the writ petition and the same is dismissed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Chairman
Tamil Nadu Electricity Board
Mount Road
Chennai 600 002
 2. The Superintending Engineer
Tamil Nadu Electricity Board
Royapuram
Chennai 600 013
 3. The Chief Engineer
Tamil Nadu Electricity Board
Mount Road
Chennai 600 002
- +1 cc to M/s.Surana & Surana, advocate, sr.4426
+1 cc to Mr.P.R.Dhilipkumar, advocate, sr.4384.

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krd 27/2

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