

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.439 of 2015 and 7952 of 2016

S.Selvarani

.... Petitioner in
W.P.439 of 2015

1.K.Lakshmi

2.A.Banumathi
(R2 Implead as a 2nd petitioner
vide order dt.12/6/07)
in WMP.No.15770/17

.... Petitioner in
W.P.7952 of 2016

- Vs -

1. The Executive Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Poothamoor, Chidambaram
Road, Vridhachalam, Cuddalore District.
- 2 The Assistant Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Poothamoor, Chidambaram
Road, Vridhachalam, Cuddalore District.
- 3 The Superintending Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Vridhachalam,
Cuddalore District.
- 4 The Chief Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Villupuram.
- 5 K. Lakshmi ,
No.1 Raman Street
Ramachandrapettai Virdhachalam,
Cuddalore District.

(R-5 is impleaded as per order dated 27.03.2017

in MP.No.2/2015 in WP.No.439/2015. .. Respondents in
W.P.No.439 of 2015

1. The Superintending Engineer,
TANGEDCO, Keppar Malai,
Cuddalore, Cuddalore District.
2. The Executive Engineer,
TANGEDCO, Boothamoor,
Chidambaram Road, Vridhachalam,
Cuddalore District.
3. The Assistant Engineer,
TANGEDCO, Operation & Maintenance,
Vridhachalam Town, Boothamoor,
Vridhachalam, Cuddalore District.
4. S.Selvarani
(R4 is impleaded as per Order dt.18.03.2016
in WMP.847/2016 in W.P.No.7952/2016)

.. Respondents in
W.P.No.7952/2016

Writ petition in W.P.No.439 of 2015 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein not to provide any new electricity connection in the name of any third persons in respect of the house bearing door No.145 Plot No.79 in Old T.S.No.20/6, New No.20/28 and Plot No.80 in the same Old T.S.No.20/6, New No.20/28 situate at Kurichippo Street, South Periyar Nagar, Poothamoor Village, Vridhachalam and not to restore connection without giving an opportunity of being heard from the petitioner.

Writ petition in W.P.No.7952 of 2016 is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relevant to the order in Letter No.UMIPO/Na. Ka./VIRU/Va. Aa/ A. No.241/2014 dt 8.12.2014 and Ka.No. UMIPO/E & Pa/Na/VIRU/Ko. Katu/A. No.270/2014-15 dt 21.1.2015 passed by the 3rd respondent herein and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and consequently direct the 1st respondent to consider the case of the petitioner for the alleged false charge of energy theft and pass appropriate orders for the representation dt 15.12.2014 and 8.1.2015 made by the petitioner.

For Petitioner in : Mr.S.T.P.Kuilmozhi
W.P.439/2015 &
for R4 in W.P.7952/2016
For Petitioner in
WP.7952/16 : Ms.T.Sundaravadanam

For Respondents : Mr.Varunkumar for TNEB
1 to 4 in W.P.439/
2015 & R1 to R3 in
W.P.7952/2016

COMMON ORDER

As the writ petitions are interconnected touching upon the very same issues, they have been taken up together and disposed of by way of commoner order.

2. For the sake of brevity, the petitioner in W.P.No.7952 of 2016 is referred to in the same capacity and so is the respondent therein.

3. The petitioner was the tenant under one Solomon Herbert. Apprehending unlawful eviction, the petitioner filed a suit in O.S.No.411 of 2009 on the file of District Munsif Court, Viruthachalam, which is pending adjudication with the interim order. Solomon Herbert filed a suit in O.S.No.201 of 2010 before the Principal Sub Court, Viruthachalam, seeking to restrain the petitioner and others from encroachment and for permanent injunction. H.R.C.O.P.No.2 of 2010 has been filed by the erstwhile landlord and the present vendor before the Principal District Munsif Court, Viruthachalam, seeking eviction under the Rent Control Act. H.R.C.O.P.No.2 of 2010 has also been filed by the very same parties viz., erstwhile landlord and the present vendor before the Principal District Munsif Court, Viruthachalam, for fixation of fair rent. Pending the abovesaid proceedings, the present vendor viz., S.Selvarani, who has purchased the property in pursuant to the sale deed dated 02.04.2014 from the erstwhile landlord Solomon Herbert, has filed W.P.No.439 of 2015. By the impugned order, the request of the petitioner for reconnection of the electricity was declined on the ground that the same can only be considered on payment of Rs.40,840/- towards the theft of electricity charges. The fourth respondent in the aforesaid writ petition viz., W.P.No.7952 of 2016 (since impleaded), who is also the petitioner in W.P.No.439 of 2015, seeks a direction to the respondents not to provide any new electricity service connection. This petitioner has also got impleaded in the pending civil proceedings including eviction petitions.

4. The learned counsel appearing for the petitioner in W.P.No.7952 of 2016 would submit that the petitioner would pay the amount of Rs.40,840/- to the respondents, in which case, the electricity service connection will have to be restored.

5. The learned counsel appearing for the fourth respondent in W.P.No.7952 of 2016 and the petitioner in W.P.No.439 of 2015, would submit that when there is a dispute between the parties and the proceedings are pending before the Civil Court, such a request cannot be acceded to.

6. The learned counsel appearing for respondents 1 to 4 in W.P.439 of 2015 and Respondents 1 to 3 in W.P.No.7952 of 2016 submits that if the amount demanded by the Respondents-Electricity Board is paid, service connection would be effected.

7. Admittedly, the proceedings are pending. However, the pending proceedings do not have any relevancy to the service connection sought to be effected. What the petitioner seeks is the reconnection, which was disconnected in pursuant to the non payment of the amount claimed. The petitioner is also having the benefit of the interim order. The very fact that the eviction petition has been filed against the petitioner would show that she is in possession and enjoyment of the premises. As the petitioner is ready and willing to pay the amount demanded by the respondents -Electricity Board, there cannot be any impediment for giving it, since it is a basic necessity and thus, a right accrued to a person in possession, especially when eviction proceedings are pending. What cannot be done directly cannot also be done indirectly.

8. In such view of the matter, a direction is issued to respondents 2 and 3 in W.P.No.7952 of 2016 to effect reconnection of the electricity service connection to the petitioner's premises subject to the payment as required by them within a period of one week from the date of receipt of a copy of this order. Accordingly, W.P.No.7952 of 2016 stands disposed of. Consequently, W.P.No.439 of 2015 stands dismissed. However, it is made clear that this order will not stand in the way of the parties working their right before the appropriate forum. The payment to be made is also without prejudice to the case of the petitioner in the Criminal case in Crime No.730 of 2014 on the file of Virudhachalam Police Station. The requisite payment also would include the belated payment of sur charge. No costs.

Consequently, Miscellaneous Petitions viz., 7079 to 7081 of 2016 in W.P.Nos.7952 of 2016 are closed. M.P.No.1 of 2015 in W.P.No.439 of 2015 is also dismissed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

raa

To

1. The Executive Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Poothamoor, Chidambaram
Road, Vridhachalam, Cuddalore District.
 - 2 The Assistant Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Poothamoor, Chidambaram
Road, Vridhachalam, Cuddalore District.
 - 3 The Superintending Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Vridhachalam,
Cuddalore District.
 - 4 The Chief Engineer,
TANGEDCO, Tamil Nadu Electricity Production
and Distribution, Villupuram.
 5. The Superintending Engineer,
TANGEDCO, Keppar Malai,
Cuddalore, Cuddalore District.
 - 6 The Assistant Engineer,
TANGEDCO, Operation & Maintenance,
Vridhachalam Town, Boothamoor,
Vridhachalam, Cuddalore District.
- +1cc to M/s.T.Sundaravadanam,Advocate sr.41768

W.P.Nos.439 of 2015 & 7952
of 2016

kgk(co)
ss(19/6/2017)