

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.04.2017

Coram

The Hon'ble Mr.Justice S.M.Subramaniam

Writ Petition No. 12370 of 2012
and
M.P.Nos. 1 & 2 of 2012

Muthusamy

...Petitioner

Versus

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Krishnagiri Taluk & District.
2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Krishnagiri Taluk & District.
3. The Assistant Engineer,
(Operation and Maintenance)
Tamil Nadu Electricity Board,
Allapathy, Krishnagiri Taluk & District.
4. S.P. Ramalingam,
S/o Peyappa Gounder,
Sokkadu Village,
Moramadugu Post,
Krishnagiri District.

... Respondents

PRAYER:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the entire records of the 3rd Respondent in and by its impugned letter Oo.Pa/E.Pa/Aa.Pa/Ko.Thani/No.369/2011 dated 27.12.2011 and quash the same and consequently direct the Respondents 1 to 3 to give agriculture service connection to the Petitioner's well in Survey No.23/3, Sokadu Village, Moramadugu Post, Krishnagiri Taluk and District.

For Petitioner :Mr. Mukund R. Pandiyan

For Respondents 1 to 3 :Mr. M.Varun Kumar
For Respondent 4 :Mr. D. Ramesh Kumar

O R D E R

The petitioner has filed this Writ Petition, challenging the proceedings of the third respondent, dated 27.12.2011, in and by which, his request for grant of free agricultural electricity service connection to the agricultural land has not been considered.

2. The petitioner owns an agricultural land, bearing Survey No.23/3, in Sokadu Village, Moramadugu Post, Krishnagiri Taluk and District. The petitioner has applied for free electricity service connection for agricultural purpose, by submitting an application in the year 1987. The application is taken up on seniority basis, and by the impugned notice, dated 27.12.2011, the petitioner has been informed that, the fourth respondent, (who is the neighbouring land owner of the petitioner) has raised objection for providing electricity service connection to the petitioner's land, as the land, where, the electric cables were drawn belongs to him, and, if electricity connection is provided, it would affect the vegetation of the mango saplings, teak saplings etc., and therefore, the petitioner has been requested either to settle the dispute amicably with the fourth respondent, or to provide some other alternate way, for providing electricity supply. Challenging the said impugned notice, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner has submitted that, the petitioner got frustrated, because, the application was made in the year 1987, and only in 2011, it was processed, and, after verification of documents, (viz., chitta, adangal, and certificate issued by Village Administrative Officer) steps were taken to provide electricity connection, and soon after the installing work and wiring work were completed, the fourth respondent has raised objection for provision of electricity service connection, which would per se prove that only with an ulterior motive to stall the progress of the petitioner, such an objection is raised, and therefore, the learned counsel submitted that the objection need not be gone into, and prays that the respondent-Board may be directed to provide electricity service connection to the petitioner's agricultural land.

4. The learned counsel for the respondent-Electricity Board, while reiterating the averments set out in the counter affidavit filed by the respondent-Board has submitted that, the impugned order has been passed solely based on the objections raised by the fourth respondent, who has stated that the land, where, the electric poles/cables drawn, belongs to him, and, if electricity connection is allowed to pass through the cables drawn from the fourth respondent's land, it would obviously cause damage to the vegetation of the trees and saplings planted there. Therefore, the learned counsel, submitted that, it is for the petitioner, either to settle the dispute amicably with the fourth respondent or to provide some other alternate way for drawing of electric cables, so as to provide electricity service connection, and the respondent-Board cannot be found fault with issuance of the impugned notice. Further, the learned counsel also took shelter under Rule 27 (6) of the Tamil Nadu Electricity Regulatory Commission, Tamil Nadu Electricity Distribution Code, which enables them to provide electricity service connection on compliance of the conditions mentioned infra:-

"Where the intending consumer's premises has no frontage on a street and the supply line from the licensee's mains has to go upon, over or under the adjoining premises of any other person (whether or not the adjoining premises is owned jointly by the intending consumer and such other person), the intending consumer shall arrange at his/her own expense for any necessary way leave, licence or sanction before the supply is effected. Even when the frontage is available, but objections are raised for laying lines/cables/poles through a route proposed by the licensee involving minimum cost and in accordance with the technical norms, to extend supply to the intending consumer, the intending consumer shall arrange at his/her own expense necessary way leave licence or sanction before the supply is effected."

5. The learned counsel for the fourth respondent has submitted that the fourth respondent has filed a counter affidavit, inter alia, contending that the electricity connection can be provided by drawing electricity poles in the petitioner's land, and the petitioner, with an inimical intention to cause damage to his trees, is intending to draw electricity from the land belonging to him, and this aspect has been rightly considered by the respondent-Board, while considering the petitioner's prayer.

6. Heard the learned counsel for the petitioner and the learned counsels for the respondent-Board and the fourth respondent.

7. It is an admitted fact that the fourth respondent has raised objection to provide electricity service connection through his land to the petitioner. Such being the factual position, it is for the petitioner to workout his remedy, either by settling the dispute amicably with the fourth respondent, or to provide some other alternate route, enabling the respondent-Board to provide electricity service connection (as suggested by the respondent-Board in the impugned notice). Therefore, the impugned order passed by the third respondent cannot be found fault with. Once the way is cleared, the Board is ready and willing to provide electricity service connection.

8. In the aforesaid facts and circumstances of the case, I do not find any reason to interfere with the impugned order passed by the third respondent. However, if the petitioner is able to resolve the issue with the fourth respondent amicably, then, he shall report the same (viz., clearance of the route) to the respondent-Board within a period of two weeks from the date of receipt of a copy of this order. In the event of receiving any such intimation from the petitioner, the respondent-Board shall take appropriate steps in accordance with Rule 27 (6) of the aforementioned Rules, and provide electricity service connection to the petitioner's agricultural land, without any hassle. In case, the petitioner is able to find out some other alternate route, the same shall also be intimated to the respondent-Board, within a period of two weeks from the date of receipt of a copy of this order, in which case, the respondent-Board shall consider the claim and counter claims, if any, and pass appropriate orders within a period of eight weeks thereafter, by providing free agricultural electricity service connection to the petitioner's agricultural land without any further hassle.

9. In the result, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Krishnagiri Taluk & District.
2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Krishnagiri Taluk & District.
3. The Assistant Engineer,
(Operation and Maintenance)
Tamil Nadu Electricity Board,
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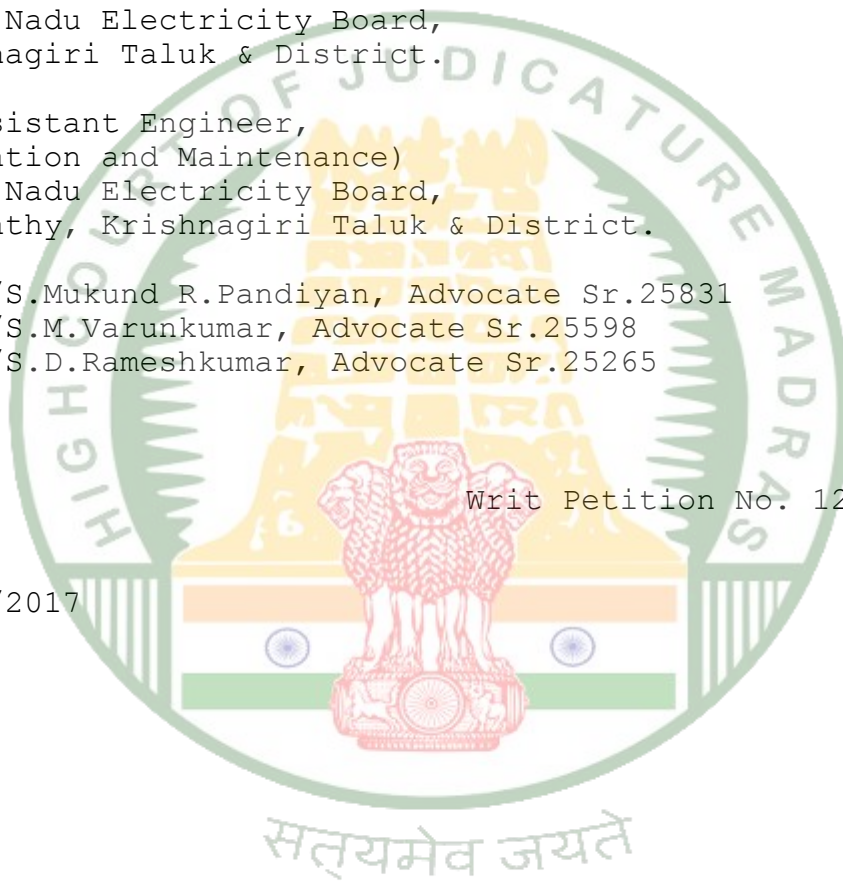
+1cc to M/S.Mukund R.Pandiyan, Advocate Sr.25831

+1cc to M/S.M.Varunkumar, Advocate Sr.25598

+1cc to M/S.D.Rameshkumar, Advocate Sr.25265

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srg 12/05/2017



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