

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Rev.Application (Writ) No.88 of 2016
in W.P.No.11784 of 2015
and WMP.No.20313 of 2016

1.Susaiammal

2.Manika Selvaraj

..

Petitioners

vs.

1.J.Subadra Devi

2.The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai-600 002.

3.The Assistant Engineer,
Office of the Assistant Engineer,
TNEB, Anna Nagar North,
Anna Nagar, Chennai-600 040.

.. Respondents

Prayer: Review Application filed under Order 47 Rule 1 r/w. Section 114 of Civil Procedure Code seeking to review the order dated 22.04.2015 made in W.P.No.11784 of 2015.

For Applicants : Mr.K.M.Ramesh

For Respondents : Mr.M.Balasubramanian for R1

Mr.P.R.Dhilip Kumar
Special Government Pleader for R2 and R3

ORDER

The first respondent herein has filed the Writ Petition in W.P.No.11784 of 2015 against the Chairman, The Tamil Nadu Electricity Board, Chennai-600 002 and the Assistant Engineer, Anna Nagar North, Chennai-600 040, praying for issuance of a Writ of Mandamus directing the second respondent therein to give separate domestic electricity service connection based on her representation dated 10.04.2015 in respect of the premises, namely first floor of land and building situated in the sanctioned plan of West Madras Neighbourhood Scheme at Arignar Anna Nagar, No.T-16, 11th Street, Anna Nagar, Chennai-600 040, bearing Plot No.4111, admeasuring to an extent of 1 Ground and 1200 Sq.Ft. In the affidavit filed in support of the said writ petition, the first respondent has stated that she had filed a Suit for partition in O.S.No.4310 of 2014 on the file of the City Civil Court, Chennai against her step mother and her son in respect of the above said property and her step brother purposefully disconnected the water supply and electricity service connection where she is residing and without basic amenities, it is impossible to live decently and since the application submitted by her for getting electricity service connection was not disposed of, she was constrained to file the above said writ petition.

2. The Writ Petition was listed on 22.04.2015 and on that day, Mr.P.R.Dhilip Kumar, learned Standing Counsel accepted notice on behalf of the respondents and this Court disposed of the said writ petition, vide order dated 22.04.2015, indicating that it has not gone into the merits of the application submitted by the first respondent/writ petitioner and directed the second respondent therein to consider the application submitted by the writ petitioner, after putting the concerned persons on notice and pass orders as expeditiously as possible and not later than four weeks from the date of receipt of the order and communicate the decision taken, to the petitioner as well as the persons concerned.

3. Mrs.Susaiammal and another had filed the present Review Application stating among other things that the second respondent in the writ petition/third respondent herein, without putting the concerned persons, namely the review applicants on notice, has granted electricity service connection in respect of the first floor of the premises in question and if the review applicants were put on notice, they would have pointed out about the lack of bonafide and suppression of material facts on the part of the writ petitioner/first respondent herein and therefore, the order passed in the writ

petition is to be reviewed and as a consequence, the electricity service connection effected in respect of first floor of the premises is to be disconnected.

4. Mr.K.M.Ramesh, learned counsel appearing for the review applicants has drawn the attention of this Court to the typed set of documents and would submit that the first respondent is not known as Subadra Devi and she has converted to Christianity and changed her name as J.Sharon Mercy on 03.12.1987 and it has also been published in the Tamil Nadu Government Gazette dated 29.03.2006 and despite the said fact, the writ petitioner/first respondent continues to use her maiden name even in the subsequent petition filed in Crl.O.P.No.22856 of 2015 and the same would exhibit her conduct. It is the further submission of the learned counsel appearing for the review applicants that she along with her sister, namely one J.R.Susikala had filed O.S.No.4310 of 2014 on the file of the 7th Assistant City Civil Court, Chennai, praying for the relief of partition and separate possession as well as for permanent injunction and pending disposal of the Suit, she filed I.A.No.11807 of 2014 praying for an ad-interim injunction restraining the defendants/respondents which include the review applicants from in any way alienating or encumbering the petition mentioned property pending disposal

of the Suit and the said interlocutory application was dismissed by the trial Court on the ground that only after letting evidence at the time of pronouncing the judgment, the real facts of the Suit to be known and subsequently no further challenge has been made to the said order.

5. The learned counsel appearing for the review applicants would further submit that subsequently, the first respondent along with her sister filed I.A.No.7264 of 2015 in O.S.No.4310 of 2014 under XXIII Rule 1 and Rule 3(b) of C.P.C. praying for permission to withdraw the above suit with liberty to file a fresh suit on the same cause of action and it was also permitted to be withdrawn with liberty, vide order dated 30.04.2015 and challenging the said order, the review applicant has also filed CRP.No.4184 of 2015 before this Court and the same is pending. The learned counsel appearing for the review applicants would vehemently contend that admittedly the material facts relating to dismissal of I.A.No.11807 of 2014, filed for ad-interim injunction and withdrawal of the Suit has been suppressed by the first respondent/writ petitioner and the official respondents in the writ petition, without understanding the scope and purport of the order and without putting the concerned persons on notice, has straightaway granted domestic electricity service connection to the first floor of the

premises. It is also contended by the learned counsel appearing for the review applicants that the first respondent/writ petitioner actually residing in second floor and after obtaining electricity service connection for the first floor, she is in occupation of the first floor as well as the second floor and therefore, prays for allowing of the writ petition with a further direction, directing the official respondents in the writ petition to disconnect the domestic electricity service connection given to the first floor forthwith.

6. Mr.P.R.Dhilip Kumar, learned Standing Counsel appearing for the respondents 2 and 3 has drawn the attention of this Court to the counter affidavit and would submit that after the order was passed by this Court, the site was inspected and notice was issued and process of effecting new electricity service connection is taking place.

7. Mr.M.Balasubramanian, learned counsel appearing for the first respondent would submit that providing of electricity service connection, especially domestic service connection is a basic amenity and would contend that the first respondent/writ petitioner is in occupation of the first floor and the second floor is under lock and key and since the points urged by the learned counsel appearing for the review applicants are factual in nature, the

same cannot be agitated in this review petition and would further contend that under the guise of review, the review applicants wants to gather materials from this Court so as to enable her to use it in civil proceedings and the same is impermissible and prays for dismissal of this review application.

8. This Court has considered the rival submissions and also perused the entire materials placed before it.

9. A perusal of the counter affidavit filed by the respondents 2 and 3 coupled with the submission made by the learned Standing Counsel appearing for them would clearly disclose that the respondents 2 and 3 have not at all understood the scope and purport of the order dated 22.04.2015 passed in W.P.No.11784 of 2015 and in paragraph 4 of the said order, this Court has clearly indicated that it has not gone into the merits of the application dated 10.04.2015 submitted by the first respondent/writ petitioner and directed the second respondent therein, namely the Assistant Engineer (TANGEDCO), Anna Nagar North, Anna Nagar, Chennai-600 040, to consider the said application after putting on notice the persons concerned and pass orders as expeditiously as possible and not later than four weeks from the date of receipt of a copy of the order and also further directed the

said official to communicate the decision taken, to the petitioner/first respondent as well as the persons concerned and admittedly the second respondent did not issue any notice in terms of the aforesaid order and effected domestic electricity service connection in respect of the first floor and also not communicated the order to the first respondent.

10. It is unfortunate to note that a person in the capacity and holding the position of Assistant Engineer is not able to understand the scope and purport of the order passed by this Court, though the order makes it clear that before doing the exercise as directed, the concerned persons should be put on notice and the decision taken should also be communicated to the writ petitioner as well as the persons concerned.

11. A perusal of the affidavit filed in support of the writ petition in W.P.No.11784 of 2015 would also reveal that nothing has been stated about the dismissal of I.A.No.11807 of 2014 in O.S.No.4130 of 2014, filed for ad-interim injunction and further, it is the submission of the learned counsel appearing for the first respondent that it is purely an inadvertent mistake and the first respondent has no intention to suppress any material fact and the said submission is also placed on record. Since the third respondent did not

carryout the exercise as directed by this Court in W.P.No.11784 of 2015, this Court is of the view that the following order would meet the ends of justice.

12. The third respondent is directed to put the review applicants as well as the first respondent on notice, in respect of the domestic electricity service connection already effected to the first floor of the premises in Arignar Anna Nagar, No.T-16, 11th Street, Anna Nagar, Chennai-600 040, bearing Plot No.4111, within a period of two weeks from the date of receipt of a copy of this order and on receipt of notice from the third respondent, the review applicants and the first respondent/writ petitioner are at liberty to submit their explanation within a period of two weeks thereafter and the third respondent, on receipt of the same, is directed to consider the explanation offered by them on merits and in accordance with law and pass appropriate orders within a period of four weeks thereafter and communicate the decision taken, to the applicants herein as well as the first respondent and till such time, the domestic electricity service connection already effected need not be disconnected.

13. This Review Application is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

08.06.2017

Index : Yes / No

Internet : Yes / No

jvm

To

1.The Chairman,
Tamilnadu Electricity Board,
Anna Salai, Chennai-600 002.

2.The Assistant Engineer,
Office of the Assistant Engineer,
TNEB, Anna Nagar North,
Anna Nagar, Chennai-600 040.

M.SATHYANARAYANAN, J.

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