

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.28452 of 2016

Mrs.Sheetal P.Jain
W/o Mr.Pankaj Kumar

.. Petitioner

-vs-

1. The Chairman
Tamil Nadu Electricity Board
Anna Salai
Chennai 600 002
2. The Junior Engineer
Sowcarpet West
TNEB
Chennai 600 079
3. The Inspector of Police
C2 Elephant Gate Police Station
Elephant Gate
Chennai 600 001
4. D.Shantilal Bafna
5. Amrath Kavar
W/o D.Shantilal Bafna
6. M/s Sri Guru Mishri Foundation
represented by its Partners
Mrs.R.Sangeetha
No.72, Jermiah Road, Vepery
Chennai 600 007

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first and second respondents to restore the electricity service to the petitioner's shop, further the third respondent may be directed to take appropriate action based on the representation and complaint dated 02.08.2016 and 10.08.2016 and for consequential orders.

For Petitioner :: Mr.J.Karunanithi

For Respondents:: Mr.P.R.Dhilip Kumar
for R1 & R2
Mr.M.Elumalai
Government Advocate for R3
Mr.Raghul Balaji for R4 & R5
Mr.K.P.Gopalakrishnan for R6

ORDER

This writ petition has been filed by Mrs.Sheetal P.Jain seeking issuance of a writ of mandamus, directing the Chairman, Tamil Nadu Electricity Board, Chennai, the first respondent herein and the Junior Engineer, Sowcarpet West, Tamil Nadu Electricity Board, Chennai, the second respondent herein to restore the electricity service connection to the petitioner's shop with a further direction to the Inspector of Police, C2 Elephant Gate Police Station, Chennai, the third respondent herein to take appropriate action based on her representation and complaint dated 2.8.2016 and 10.8.2016.

2. Learned counsel for the petitioner submitted that the petitioner has been running a shop under the name and style of 'R.T.Shoes' in the ground floor at Hotel Mahasakthi International premises bearing Door No.371/137, Mint Street, Sowcarpet, Chennai after taking the shop on lease for 20 years from the fourth and fifth respondents herein under a deed of sub lease dated 8.10.2007, registered as Document No.1061 of 2007 on the file of the Sub Registrar, Sowcarpet, on payment of a lumpsum amount. In this background, the grievance of the petitioner is that while claiming ownership of the property between the respondents 4, 5 & 6, they filed two civil suits in C.S.No.912 of 2010 and C.S.No.270 of 2013 and after some time, the litigation came to an end between the parties in C.S.No.270 of 2013 by entering into a memorandum of compromise and as per the terms of compromise, it is further claimed that the entire ground floor as well as part of a portion in the first floor vested with the sixth respondent and the remaining part of the portion in the first floor as well as second, third and fourth floors vested with the fourth and fifth respondents. However, after the compromise decree passed in C.S.No.270 of 2013, it is submitted before this Court by the learned counsel for the petitioner that the respondents 4, 5 & 6 have colluded and entered into a conspiracy for dispossession of the tenants illegally, resultantly the respondents 4, 5 & 6, in collusion with the respondents 1 to 3, have disconnected the electricity service connection on 1.8.2016. Even before coming to this Court, the petitioner made a representation on 2.8.2016 to the respondents 1 & 2 requesting them to restore the electricity service connection. This apart, she has also given a complaint

to the third respondent on 2.8.2016. Since no action was taken by any one of the respondents, it is pleaded that the petitioner was constrained to come to this Court. Continuing his arguments, he submitted that appreciating the plight of the poor tenant that the landlords, in collusion with the electricity board, had disconnected the electricity connection and in spite of repeated requests, the restoration did not take place, this Court, by an interim order dated 16.8.2016, directed the second respondent to restore the electricity connection to the petitioner's shop and report the action taken before the Court. Subsequently, in view of the above direction, the disconnection made by the respondents jointly has been restored. Therefore, the learned counsel, on instructions, sought to withdraw the writ petition, since the purpose of filing the writ petition has been served.

3. However, the learned counsel for the sixth respondent heavily objected to the withdrawal of the writ petition, placing the case of the sixth respondent. Firstly, he requested this Court not to permit the petitioner to withdraw the writ petition. On the other hand, he urged this Court to dismiss the writ petition on the ground that when the complex question of fact as to whether the electricity service connection given to the petitioner's shop has been disconnected by the sixth respondent in collusion with the respondents 1 to 3 is required to be agitated before a competent civil Court, the writ petition would not lie before this Court. Secondly, by virtue of the interim order dated 16.8.2016 directing the second respondent to restore the electricity service connection to the shop run by the petitioner, the meter pertaining to the service connection No.107-08-1613, which indeed is catering to the needs of six more tenants, has been wrongly shifted from the original place, where the landlord was exercising his supervision in addition to the other tenants. Now in view of the arbitrary and unreasonable shifting of the meter pertaining to the service connection No.107-08-1613, which is actually catering to the needs of seven tenants including the petitioner, the other six tenants are put to grave prejudice. Therefore the meter shifted to the shop run by the petitioner should be restored back to the original place. With such direction, the writ petition should be dismissed.

4. The learned counsel for the respondents 1 & 2 also submitted that it is a case of pure civil dispute between the landlords and the tenant. Although the petitioner came to this Court seeking restoration of the electricity supply pertaining to the service connection No.107-08-1613 on the ground that the respondents 1 & 2, in collusion with the respondents 4 to 6, had disconnected the electricity service connection to her shop, after the interim direction of this Court dated 16.8.2016, a visit was made by the staff of the second respondent to the

place where the restoration had to be done. On inspection of the disputed premises, the staff learnt that only the landlord appears to have disconnected the supply. Therefore, it is a matter for the petitioner to work out her remedy in the manner known to law by approaching the competent civil Court and not this Court.

5. I fully agree with the contentions made by the learned counsel for the respondents 1 & 2 and also the contentions made by the learned counsel for the sixth respondent. Although the writ petition is not maintainable under Article 226 of the Constitution of India in matters of civil dispute, since a direction has already been issued by this Court on 16.8.2016 to the second respondent to restore the electricity service connection No.107-08-1613 and pursuant thereto the restoration also has been done, this Court is not inclined to interfere with the said order. However, as the meter pertaining to the electricity service connection No.107-08-1613 has been wrongly shifted from the original place to the shop run by the petitioner, the second respondent shall ensure that the meter is restored back to the original place, so as to enable the other six tenants to note the reading of the electricity consumed by them from the same meter, within a period of three days and it is for the petitioner to work out her remedy before the competent civil Court. The writ petition stands disposed of. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

ss

To

1. The Chairman
Tamil Nadu Electricity Board
Anna Salai
Chennai 600 002
2. The Junior Engineer
Sowcarpet West
Tamil Nadu Electricity Board
Chennai 600 079
3. The Inspector of Police
C2 Elephant Gate Police Station
Elephant Gate
Chennai 600 001

+1CC TO M/s.K.P.Gopalakrishnan, Advocate sr.1367

+1cc to Government Pleader sr.2248

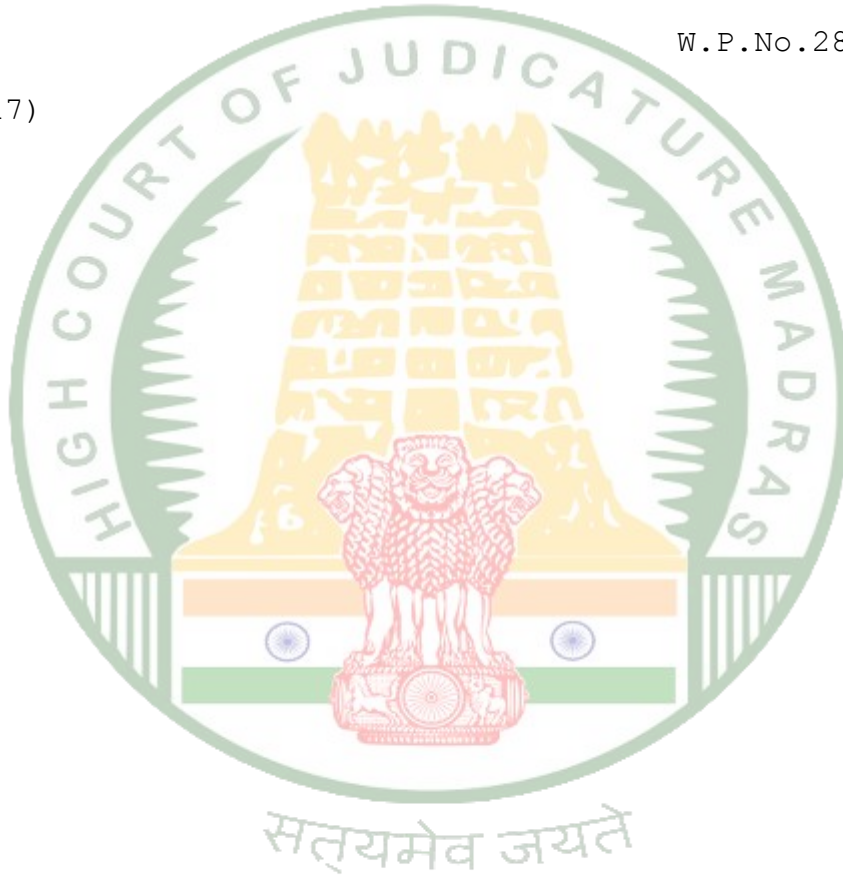
+1cc to M/s.J.Karunanithi, Advocate sr.2198

+1cc to M/s.Sathish Parasaran, Advocate sr.1449

+1cc to M/s.P.R.Dhilipkumar, Advocate sr.1400

nri(co)
ss(1/2/2017)

W.P.No.28452 of 2016



WEB COPY