

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2017

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THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.35085 of 2002

P.Poungody

... Petitioner

-Vs-

1.Union of India  
rep. By Government of Pondicherry  
through the Executive Engineer  
Electricity Department,  
Government of Pondicherry,  
Pondicherry.

2.J.Ashok Kumar

3.Sundaresh Kumar J.

4.Smt. Madhu

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Order No.7626/ED/EE-I/JE/F 30-A/01-02, dated 11.02.2002 passed by the first respondent and quash the same and consequently direct the first respondent to disconnect the electricity connection to the Commercial building situated at the site bearing T.S.No.1/1 R.S.No.31/13A part and Cadastre No.243 B is situated at Thiruvalluvar Salai, Madaliarpeth Commune, Pondicherry.

For Petitioner : No Appearance  
For Respondent-1 : Mr.A.S.Bharathy, GA  
For Respondents 2 to 4: No Appearance

O R D E R

The prayer sought for in this writ petition is for a Certiorarified Mandamus calling for the records relating to the Order No.7626/ED/EE-I/JE/F 30-A/01-02, dated 11.02.2002 passed by the first respondent and quash the same and consequently

direct the first respondent to disconnect the electricity connection to the commercial building situated at the site bearing T.S.No.1/1 R.S.No.31/13A part and Cadastre No.243 B, situated at Thiruvalluvar Salai, Madaliarpur Commune, Pondicherry.

2. When the case is called today for hearing, no one is appearing for the petitioner. Though the counsel had entered appearance for R2 to R4 no one is appearing for the respondents R2 to R4 also. However, Mr.A.S.Bharathy, learned Government Advocate (P) for the first respondent is present.

3. Since the writ petition is of the year 2002 and has been pending before this Court for more than 15 years, this Court is inclined to dispose of the writ petition on merits based on the available records and the submissions made by the learned counsel appearing for the first respondent.

4. The respondents 2 to 4 had been given electricity connection by the first respondent on 09.04.1999. However, after 27 months, the petitioner seems to have given objection on 18.07.2001 objecting that there is a dispute between the petitioner and the respondents 2 to 4 over the property in question where the said service connection has been effected by the first respondent.

5. On the strength of the said objection, the petitioner approached this court by filing writ petition in W.P.No.16718 of 2001 seeking for a writ of mandamus, to decide the objection made by the petitioner to the first respondent. Accordingly, a direction to that effect was issued by this Court in W.P.No.16718 of 2001, by order dated 14.09.2001.

6. Pursuant to the said order passed by this Court, the objection raised by the petitioner on 18.07.2001 was considered and decided by the first respondent, on merits, by passing the impugned order dated 11.02.2002.

7. The said order has proceeded to state that the electricity service connection was effected to the private respondents 2 to 4 on 09.04.1999. The said action of effecting service connection to the private respondents, according to the first respondent, was passed on satisfying the department, as all the three contesting respondents had given registered documents as proof of ownership to the first respondent.

8. Though the said service connection was effected on 09.04.1999, the petitioner, after two years, seems to have given his objection only on 18.07.2001, where the petitioner raised an

issue that there is a litigation pending between the petitioner and the contesting respondents.

9. In this regard, the first respondent has replied through the impugned order that, since the service connection was effected on 09.04.1999 and the objection of the petitioner was given only on 18.07.2001 after 27 months, if at all any conclusively determined order of the court, on the lines, between the petitioner and the contesting respondents, is produced, that would be considered by the first respondent in this regard. The relevant portion of the impugned order is extracted hereunder for easy reference.

" 3.In reply to your petition, it is informed that registered documents in proof of ownership were furnished to the satisfaction of this Department, by all the three applicants namely i) Thiru J.Ashok Kumar, ii) Thiru. J.Chandresh Kumar and iii) Tmt. Madhu W/o Thiru. Balan and after careful scrutiny of their applications as per terms and conditions of power supply service connection were effected to the above applicants on 09.04.99 to the ground floor and on 05.01.2000 to the first floor.

4.This Department was not aware of any dispute between you and the applicants at the time of effecting power supply and hence supply was effected to the occupants of the premises on 09.04.99. Only on 18.07.2001 and after a lapse of 27 months you have submitted your objection after effecting power supply. However, if it is conclusively determined by a Court of Law that the present consumers are not the owners of the property, this Department shall consider the question of withdrawal of the Electricity connections.

5.The objection raised by the petitioner regarding sanctioned plan, citing Clause 16 of terms and conditions of power supply applicable for multi-stroeyed buildings, is not applicable for the present case, for the reason that it is not a multi-storeyed building, as per the specifications of the Pondicherry Planning Authority."

10. The first respondent since has stated that once the petitioner approached the first respondent with the conclusive documentary proof to show that the dispute between the petitioner and the contesting respondents is resolved finally by a Court of law, based on such conclusive proof, the first respondent would be ready and willing to review the decision.

11. When that being the position, the petitioner without giving any such conclusive proof to claim that the petitioner alone is entitled for service connection to the building/property in question and therefore, the service connection already effected should be disconnected, cannot seek for an relief at this juncture. Therefore, the said objection raised by the petitioner has rightly been considered and decided at least for the time being by the first respondent, which is reflected in the impugned order.

12. In view of the above, this Court is of the view that nothing to be noticed as infirmity in the impugned order as the first respondent itself has given an leverage to the petitioner to approach the first respondent in case, if the petitioner is able to produce any conclusive proof of ownership of the property in question where the service connection already effected in favour of the contesting respondent. Therefore, the impugned order cannot be said to be unsustainable. Accordingly, the writ petition fails, hence, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Executive Engineer,  
Union of India  
Electricity Department,  
Government of Pondicherry,  
Pondicherry.

+lcc to Government Pleader SR.No.85950

W.P.No.35085 of 2002

sm:26.12.2017