



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2017

CORAM

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THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P. (MD) .Nos.1411 of 2014
and
M.P. (MD) No.1 of 2014

K.Kannan

... Petitioner

Vs.

1. The Superintendent Engineer,
Tamil Nadu Power Generation and Distribution Corporation,
Tuticorin District.

2. The Junior Engineer,
Town / East
Tamil Nadu Power Generation and Distribution Corporation,
Kovilpatti,
Tuticorin District.

... Respondents

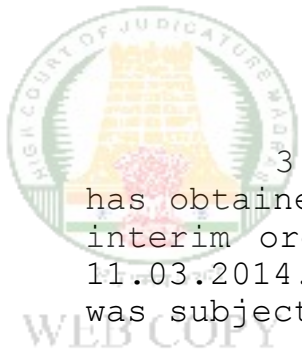
PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2nd respondent herein in his proceedings in Ka.No. Ee.Ni.Po/Na/Ki/K.Patti/Ko.20/A.No.729/2013, dated 31.07.2013 and quash the same and consequentially direct the respondents herein to provide electricity connection to the petitioner's house in Door No. 43 B/12A3, 2nd Bungalow Street, Kovilpatti. Tuticorin District.

For Petitioner : Mr. S.Alagusangeetha
For Respondents : Mr. A.U.Ramanathan
Standing counsel for TNEB

O R D E R

This Writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the order dated 31.07.2013 passed by the second respondent and direct the respondents to provide electricity service connection to the petitioner's house in Door No. 43 B/12A3, 2nd Bungalow Street, Kovilpatti. Tuticorin District.

2. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents.



3. During the pendency of writ petition, the petitioner has obtained a temporary electricity service connection by virtue of interim order passed by this Court in M.P.(MD)No.1 of 2014, dated 11.03.2014. This temporary electricity service connection of course was subject to the result of the writ petition.

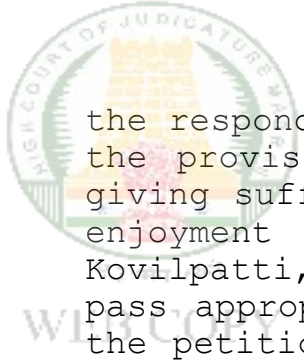
4. The case of the petitioner in the present case is that the petitioner purchased the land and put up construction in 2013. Though the property has been assessed to property tax and the petitioner is paying property tax without any default, the land in which the petitioner has put up construction is registered and classified as a water body.

5. The petitioner approached the second respondent to get electricity service connection to his house. Further, the second respondent passed the impugned order, dated 31.07.2013 stating that on inspection, it was found that the property in Survey Nos.516/1 and 516/2 in the village is classified as Kurinjankulam Kanmai and that there are litigations in relation to several parcels of land located within the said survey number. Therefore, it was stated that the electricity service connection cannot be given to the petitioner for this property. It is certainly indicated that there are litigations in respect of, several parts of land which was classified as Kurinjankulam Kanmai. It is only against the order refusing to extend electricity service connection to the petitioner, the above Writ Petition was filed.

6. Though the petitioner has raised several grounds, having regard to the specific provisions of Tamil Nadu Electricity Distribution Code 2004, this Court is inclined to entertain the writ petition and to issue appropriate direction to the respondents. Clause 27 of the Tamil Nadu Electricity Regulatory Commission - Tamil Nadu Electricity Distribution Code reads as follows:

"4. An intending consumer who is not the owner of the premises he occupies shall produce a consent letter in Form 5 of Annexure III to this Code from the owner of the premises for availing the supply. If the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his / her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this Code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

7. The fact that the petitioner is in possession and enjoyment of building constructed in the premises is not in dispute. Since the petitioner is in enjoyment of the property, which was classified as a water body of Municipality or Government, there is no scope for giving patta to the petitioner. However, it is open to



the respondent to consider the request of the petitioner in terms of the provisions of Tamil Nadu Electricity Distribution Code, after giving sufficient opportunity to the petitioner to prove his lawful enjoyment and after issuing notice to the concerned Tahsildar, Kovilpatti, Tuticorin District. The second respondent is directed to pass appropriate orders after an enquiry and giving opportunity to the petitioner as well as to the Tahsildar and to pass appropriate orders within a period of 8 weeks from the date of receipt of a copy of this order.

8. Depending upon the outcome of the order passed by the second respondent, the second respondent is also at liberty to pass appropriate orders regarding the temporary electricity service connection that is now given to the petitioner by virtue of interim order passed by this Court.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent Engineer,
Tamil Nadu Power Generation and Distribution Corporation,
Tuticorin District.
2. The Junior Engineer,
Town / East
Tamil Nadu Power Generation and Distribution Corporation,
Kovilpatti,
Tuticorin District.

+ 1 CC TO Mr.A.U.RAMANATHAN, ADVOCATE IN SR No. 59158
+ 1 CC TO M/S.K.HEMAKARTHIKEYAN, ADVOCATE IN SR No. 58890

SM/CP

TE/MR/SAR-I : 30/06/2017 : 3P/5C

W.P.(MD).Nos.1411 of 2014 and
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