



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.4573 of 2017

Ponraj

... Petitioners

Vs.

1.The Assistant Engineer,
TANGEDCO
Gombai,
Theni District.

2.The Assistant Executive Engineer,
TANGEDCO
Gombai, Uthamapalayam,
Theni District.

3.The Inspector of Police,
Kombai Police Station,
Theni District.

...Respondents

(R-3 is impleaded vide order dated 22/03/17 in
WMP (MD) No. (MD) .3808/17)

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent herein to forthwith provide the Electricity Service Connection to the petitioner house property bearing Door No.14-1-50/2, Ward No.2 Thevammam Street, Gombai Village, Theni district within the time stipulated by this Court.

For Petitioner : Mr.B.Jameel Arasu
For Respondents 1 to 2: Mr.E.P.Venketesh
For Respondent 3 : Mr.J.Gunaseelan Muthiah,
Government Advocate

O R D E R

The Writ Petition has been filed by the petitioner for issuing Writ of Mandamus, directing the respondent herein to forthwith provide the Electricity Service Connection to the petitioner house property bearing Door No.14-1-50/2, Ward No.2 Thevammam Street, Gombai Village, Theni district within the time stipulated by this Court.



2. Heard Mr.B.Jameel Arasu, learned counsel appearing for the petitioner, Mr.E.P.Venkatesh, learned counsel appearing for the respondents 1 and 2 and Mr.Mr.J.Gunaseelan Muthiah, learned Government Advocate appearing for the third respondent.

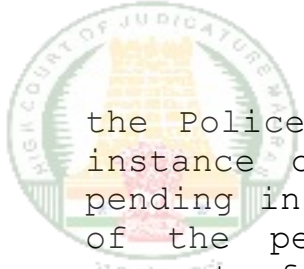
3. The petitioner claims to be the owner of the land measuring an extent of 2 Acres 67 Cents in Survey No.292/4A1B situated at Thevammam Theru, 2nd Ward, Gombai village. It is the further contention of the petitioner that a new house was constructed by the petitioner which bears Door No.14-1-50/2. The petitioner appears to have applied for electricity service connection in the name of the petitioner, in respect of the new house constructed by the petitioner. Since, one Gurusamy and Natarajan obstructed the officials of the Electricity Board and prevented them from providing service connections to the petitioner's house, the respondents have sent a communication on 29.03.2011, stating that the service connection can be provided to the petitioner if the petitioner is able to clear the dispute relating to the pathway in the manner known to law.

4. The petitioner was therefore constrained to file a Civil Suit in O.S.No.190/2011 on the file of the District Munsif Court, Uthamapalayam, praying for permanent injunction restraining the defendants in the suit from in any manner, obstructing the petitioner and his family members in using the common pathway to the newly constructed house for which the petitioner is seeking electricity connection. Though the individuals namely Gurusamy and Natarajan were arrayed as necessary parties and they were the one who obstructed the petitioner from enjoying the property, the Civil Court has granted a decree for permanent injunction, the grievance of the petitioner is that the decree of Civil Suit is not considered by the respondents.

5. On the facts stated by the petitioner's counsel, this Court has permitted to implead the concerned Police Officials. Today when the matter came up for hearing, there was no representation for the concerned Police Officer, who has now been impleaded. Mr.J.Gunaseelan Muthiah, the learned Government Advocate also took notice for the respondents. Unfortunately, none of the respondents except the Electricity Board has any instructions.

6. Hence, prima facie, this Court is of the view that the case of the petitioner, on the merits of the case can be accepted and there is no ground to suspect the bonafide of the petitioner.

7. The petitioner's specific cases is that, he has constructed his house and living there from 2010-2011. Though the petitioner has applied for electricity service connection on application, the electricity service connection is not provided to the petitioner. Further grievance of the petitioner in the present case is that,



the Police Department is inclined to close the complaint at the instance of the department on the ground that the dispute is pending in appeal before the Competent Court and that the records of the petitioner cannot be considered. And therefore, the request of the petitioner cannot be considered.

8. Considering the rival submissions of the learned counsels on either side, this Court finds that the following facts are not in dispute:

(i) the petitioner is recognized as the owner of the property and the fact that they are in lawful possession of the property as proved by the decree of the Civil Court.

(ii) the third respondent ought not have rejected the request of the petitioner once it is established before him that the petitioner has got a decree of Civil Court. After the decree of the Civil Court, the Police Authority cannot decline the request of the petitioner to give adequate protection to the petitioner who is in possession and enjoyment as found by Civil Court in his favour, as a law enforcing agency.

9. Hence, this Court is inclined to pass the following directions:

"The respondents 1 and 2 are directed to consider the petitioner's representation dated 19.01.2017 on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The petitioner in case of any difficulty, is directed to approach the third respondent for police protection for the purpose of enforcing the order of this Court and the third respondent is directed to give protection treating the petitioner in lawful possession subject to any order by the Appellate Court".

10. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Engineer,
TANGEDCO
Gombai,
Theni District.

2. The Assistant Executive Engineer,
TANGEDCO
Gombai, Uthamapalayam,
Theni District.



3.The Inspector of Police,
Kombai Police Station,
Theni District.

+1cc to MR.B.Jameel Arasu,Advocate, SR.No.51793

+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.52087

W.P. (MD) .No.4573 of 2017
12.04.2017

KM/MR

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