



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.04.2017
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.5840 of 2017 and
W.M.P.(MD)No.4621 of 2017

WEB COPY

Nagamuthu Thevar Educational Trust,
Rep. through its Managing Trustee,
K.Soundaram

..Petitioner

Vs.

1. The Assistant Engineer(Distribution),
TANGEDCO, Sivagangai Town,
Sivagangai District.

2. The Superintendent Engineer,(Distribution),
TANGEDCO, Sivagangai Town,
Sivagangai District.

3. A.Jeyaprakash

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to cancel the temporary power supply through connection No.054510130787, in the T.S.No.31/1A1, situated in Door No.23, Bose Road-Mazzid road Link, Sivagangai Town, Sivagangai District, in the name of the third respondent.

For Petitioner : Mr.R.Santhanam

For Respondents : No appearance.

O R D E R

The present Writ petition is for issuing a Writ of Mandamus, directing the respondents to cancel the temporary power supply that was extended to the third respondent with reference to the plot bearing Door No.23, Bose Road-Mazzid road Link, Sivagangai Town, Sivagangai District.

2. Heard the learned counsel appearing for the petitioner.

3. *The contention of the petitioner in the affidavit filed in support of this petition are as follows:-*

The petitioner is a registered Trust and it started a school in the year 1991, in the name and style of K.S.G.Primary and Nursery school at New Door No.23, T.S.No.31/1, G.R.No.104/1(Old Survey No.281/8). The petitioner is represented by its Managing Trustee who is the deponent.

<https://hcservices.ecourts.gov.in/hcservices/>

4. It is the further case of the petitioner that the managing



trustee, namely, the deponent occupied and enjoyed the property measuring an extent of 22 cents in T.S.No.31/1. He claimed that the property was given to him by way of a family settlement of the year 1990. The deponent claimed that he is continuously in enjoyment of the property and he also disputed the right or claim by his own brother. However, it appears that his brother had executed a Sale Deed in respect of an extent of 92 cents in the north portion of Survey No.281/8 and the dispute is in respect of the property in Survey No.281/8 which comes under T.S.No.32/1 and T.S.No.36. The petitioner has stated that a suit has been filed in O.S.No.128 of 1996 on the file of the District Munsif Court, Sivagangai, and in which the petitioner had been added as defendant. It is contended that the third respondent has put up an illegal construction in T.S.No.31/1A1 contrary to the Sale Deed.

5. When the title or enjoyment of the property is seriously in dispute, this Court normally can not entertain a Writ petition to decide as to whether a person is in lawful possession or not. It is the jurisdiction of the civil Court to decide any issue which relates to the question of title or enjoyment.

6. In that view of the matter, entertaining the Writ petition for considering whether electricity service connection given to the third respondent is justified or not, will amount to go into the rival claim with regard to title and enjoyment of the property in dispute.

7. Accordingly, this Writ petition is dismissed and liberty is given to the petitioner to approach the civil Court for appropriate relief in accordance with law. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Engineer(Distribution),
TANGEDCO, Sivagangai Town,
Sivagangai District.
2. The Superintendent Engineer, (Distribution),
TANGEDCO, Sivagangai Town,
Sivagangai District.

+1cc to Mr.R.Santhanam,Advocate,SR.50140

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