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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A.[MD].No. 514 of 2013

Pitchai Semar (died)

- 1.Moorthy
- 2.P.Saraswathy
- 3.Shenbagavalli
- 4.P.Rathina Kumar
- 5.Vijayakumar

...Appellants/L.Rs of 3rd respondent

(Cause title accepted vide Court order
dated 04.06.2013 made in M.P.No.1 of 2013
in W.A.SR.No.3602 of 2013)

Vs.

1.A.Michael ...1st Respondent/Petitioner

2.The Superintending Engineer(Rural North)
Tamil Nadu Electricity Board,
Mannarpuram,
Thiruchirappalli 620 020.

3.The Assistant Engineer,
Tamilnadu Electricity Board,
Pullambadi, Lalgudi Taluk,
Thiruchirappalli District. ... Respondents 2 & 3/Respondent 1 & 2

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 14.12.2012 made in W.P.(MD).No.782 of 2010, on the file of this Court.

Prayer in WP(MD). 782/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the respondents 1 & 2 provide domestic electricity service connection to the petitioners house situate in door No. 3/87 comprised in Survey No. 558/13 at North Street, Kovanka Kurichi Village, Lalgudi Taluk, Tiruchirapalli District.

For Appellants	: Mrs.J.Anandavalli
For R1	: Ms.J.Maria Rosline
For R2 & R3	: Mrs.Srimathi

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mrs.J.Anandavalli, learned counsel appearing for the appellants and Ms.J.Maria Rosline, learned counsel appearing for the first respondent and Mrs.Srimathi, learned counsel appearing for



the second and third respondents.

2.This appeal by the legal representatives of the third respondent in the writ petition is directed against the order in W.P.(MD).No.782 of 2010, dated 14.12.2012.

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3.The said writ petition was filed by the first respondent herein, one, A.Michael, for direction to the second and third respondents herein, to provide domestic electricity service connection to the first respondent's house, situated at bearing Door No.3/87, comprised in survey No.558/13 at North street, Kovanka Kurichi Village, Lalgudi Taluk, Trichirappalli District. The writ petition was disposed of with certain directions, the appellants before us are the legal heirs of the third respondent.

4.The first objection raised by the learned Counsel appearing for the appellants is that even at the time of passing the order in the writ petition, the third respondent was no more and relief against a dead person was obtained and that would sufficient to set aside the order in the writ petition.

5.Further, it is submitted that the civil proceedings are pending and any observation made in the writ petition filed by the first respondent herein would affect the right of the appellant / third respondent in the civil proceedings.

6.The first respondent / writ petitioner reiterated the stand taken before the Writ Court and submitted that they have suffered without electricity for several years and the objection raised by the appellant / third respondent is not tenable. In order to find a solution to the problem, we directed the Assistant Engineer, Tamilnadu Electricity Board, Pullambadi, Lalgudi Taluk, Thiruchirappalli District, to inspect the place and prepare a sketch and submit the same along with photographs before this Court. The direction has been promptly complied with by the Assistant Engineer and he has submitted the same along with his report. A rough sketch has been prepared by the Assistant Engineer from which we find that there is already existing service connection bearing No.395 for the property adjacent to the first respondent's property. The service connection No. 395 has been in existence for quite some time and the appellant / third respondent has not objected to the same and at this distance of time they cannot object to it. The objection of the appellants is that the properties where service connection Nos.602, 282 and 204 have been given are owned by the appellants and the passage in between these properties is a private passage. This question cannot be adjudicated by us, since the matter is pending before this Civil Court.

7.As pointed out earlier, there is a service connection bearing No.395 already in existence. Therefore, we direct the second and third respondents to effect domestic electricity service connection to the first respondent's house by erecting a pole near the house



with service connection No.395 and 204 strengthen the connection and reconnected to 204 and 395, and provide service connection to the first respondent. The cost of erecting of the pole and drawing the line shall be paid by the first respondent.

8.The above direction can be complied within a period of eight weeks from the date of receipt of copy of this order. It is made clear that this direction shall in no way affect the rights of the appellants herein, which shall be decided by the Civil Court based on the oral and documentary evidence placed before the Court and the observation made by us in this writ Appeal will not affect the rights of parties in the civil proceedings.

9.The Assistant Engineer was present before us and submitted that the third parties have raised serious objections even for photographs being taken by him during inspection as directed by this Court. If the said allegation is true, we strongly deprecate the same and if a Government servant is prevented from discharging his official duties or from implementing the directions issued by a Court of law, it will result in serious consequences. So as to avoid any untoward incident, we direct police protection to be given to the officials of the Electricity Board to carry out our directions. As and when the copy of this order is produced before the Sub Inspector of Police, Kallakudi Police Station, he shall forthwith provide the required police force so as to enable the Assistant Engineer to discharge his official duties and erect the electricity pole and give service connection to the first respondent's house.

10.With the above directions, this Writ Appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Sub Inspector of Police,
Kallakudi Police Station.

+1cc to Ms.J.MARIA ROSELINE Advocate in SR. No.62951

+1cc to Mrs.J.ANANDHAVALLI Advocate in SR. No.63041

+1cc to M/s.S.M.S.JOHNNY BASHA Advocate in SR. No.62942

TSG/MSA

JS/MR.KKR/SAR.4/21.07.2017/3P-5C

JUDGMENT MADE IN
W.A. [MD].No.514 of 2013
29.06.2017