



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)Nos.4392 and 6446 of 2013
and M.P.(MD) Nos.1 to 3 of 2013 in W.P.(MD) No.4392 of 2013
and M.P.(MD) No.1 of 2013 in W.P.(MD) No.6446 of 2013

S.Sivakamiammal ... Petitioner in W.P.(MD) No.4392 of 2013
S.Palraj Nadar ... Petitioner in W.P.(MD) No.6446 of 2013

Vs.

- 1.The Assistant Engineer,
Rural/North,
Tamilnadu Electricity Board,
Tuticorin.
- 2.The District Collector,
Tuticorin.
- 3.The Block Development Officer,
Ottapidaram Taluk,
Tuticorin District.
- 4.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.
- 5.The Panchayat President,
Kurukkusalai Village Panchayat,
Ottapidaram Taluk,
Tuticorin District. ... Respondents in both the petitions

COMMON PRAYER : These Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the 1st Respondent proceedings in க.எண்: உ.மி.பொ./வி/ஊ/வ/தூடி/கோ.தனி/அ.எண்: 346/13 & 347/13 respectively dated 23.02.2013 and quash the same.

For Petitioner	:Mr.N.Shankar Ganesh
For 1 st Respondent	:Mr.A.U.Ramanathan
For Respondents	:Mr.V.Muruganantham
2 to 4	Additional Government Pleader
For 5 th Respondent	:Mr.G.Thalaimutharasu

**COMMON ORDER**

The prayer in these Writ Petitions is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the 1st Respondent proceedings in க.எண்: உ.மி.பொ./வி/ஊ/வ/தூர்/கோ.தனி/அ.எண்: 346/13 & 347/13 respectively dated 23.02.2013 and quash the same.

2. These two Writ Petitions have been filed, challenging the Show Cause Notices issued by the first respondent, whereby the first respondent had stated that in view of the objections raised by the 5th respondent Village Panchayat President, stating that the buildings wherein temporary service connections have been given by the first respondent is coming under the Water catchment area and moreover, no approval for building construction was obtained from the 5th respondent, without which they have constructed the buildings, these two service connections though temporarily effected to these petitioners by the first respondent, have to be disconnected. Based on the said objection made by the 5th respondent, the first respondent has issued Show Cause Notices. Though the petitioners have chosen to send reply and explanation to the said Show Cause Notices, without waiting for the first respondent to pass orders by considering the said explanation given to them, these petitioners have rushed to this Court with these Writ Petitions with the aforesaid prayer.

3. Heard both sides.

4. In one of the Writ Petition filed in W.P.(MD) No.4392 of 2013, by order dated 17.04.2013, this Court has granted interim order, thereby the service connection effected already was directed not to be disconnected. Though there is no such interim order passed in another Writ Petition i.e., W.P.(MD) No.6446 of 2013, the learned Standing Counsel appearing for the first respondent would submit that the service connection though already given temporarily have so far not been disconnected in view of the pendency of the writ petition.

5. The learned counsel appearing for the first respondent would also submit that on receipt of the complaint or objection from the 5th respondent Village Panchayat President, in order to get a clarification from the petitioners as to whether lands in which temporary service connections was actually effected belonged to them and in order to prove the ownership, they wanted the documents from the petitioners and instead of complying with the same, they have rushed to this Court with the aforesaid prayer. He would further submit that though explanation was given by the petitioners, no further action has been taken in view of the interim order passed by this Court as well as pendency of these two writ petitions before this Court.



6. The learned counsel appearing for the 5th respondent would submit that the 5th respondent had made objection for the service connection given to the petitioners on the impression that the lands where they constructed buildings are water catchment area and if at all these lands are patta lands belonging to the petitioners and they have valid documents to show their ownership, they can very well produce the same before the first respondent. Further, they can approach the 5th respondent Panchayat President or 3rd respondent Block Development Officer for building plan approval and once the petitioners approach them for plan approval, certainly the 3rd and 5th respondents will consider and give necessary permission and without adopting the right course of action, the petitioners have come to this Court making allegations against the respondents, including the 5th respondent.

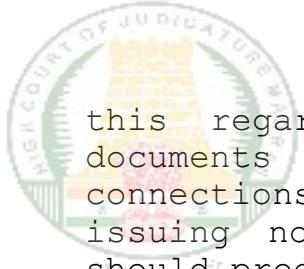
7. Heard the learned counsel for the respective parties and considered their rival submissions made.

8. The learned counsel appearing for the petitioners has produced the sale deeds through which the petitioners have obtained the respective properties where they have constructed dwelling houses and shops for which temporary service connections have been obtained by them, of course pursuant to the Certificate issued by the Tahsildar concerned. If at all the 5th respondent has got any doubt over the property where the petitioner has constructed the buildings, the 5th respondent could have verified the same with the petitioners. But the 5th respondent has given a complaint to the first respondent stating that the buildings for which service connections given by the 1st respondent to the petitioners are in water catchment area and only pursuant to which show cause notices were issued to the petitioners. Though reply has been given by the petitioners to the said show cause notices issued by the first respondent, apprehending that the service connections may be disconnected at the instance of the 5th respondent, these petitioners have approached this Court with these Writ Petitions.

9. According to the learned counsel appearing for the petitioners, if the interests of the petitioners are protected and if the first respondent is ready and willing to consider the documents produced by the petitioners pursuant to the show cause notices issued against them to show the ownership as well as possession of the property for which service connections were given, then the petitioners have no objection to go before the 1st respondent.

10. In view of the aforesaid facts and circumstances of the case, this Writ Petition is disposed of with the following directions:

(i) The reply and explanation already given by the petitioners herein pursuant to the show cause notices issued by the first respondent shall be considered by the first respondent and in



this regard if the first respondent still wants any further documents to prove ownership of the property for which service connections obtained temporarily, the same can be called for by issuing notice specifying the time within which the petitioner should produce those documents.

(ii) Once such notice is received from the first respondent, the petitioners shall produce necessary documents of title etc., to substantiate the ownership as well as the possession of the property of the petitioners.

(iii) On receipt of the those documents, the first respondent shall consider the same and decide about the continuance of the service connections on permanent basis.

(iv) In this regard, if the first respondent feels that the buildings for which service connections have been provided have not been approved by the Local Authorities i.e., either by the 3rd respondent or 5th respondent, a directive can also be issued to the petitioners to produce the building plan approval and if such directive is given the petitioners can very well approach the office of the 3rd respondent or 5th respondent, seeking building approval and if approached, the third and 5th respondent shall consider the same objectively and grant such approval in accordance with the Rules, which are governing the local authorities.

(v) Once all these formalities are complied with by producing those documents by the petitioner, based on which permanent service connection can be effected by the first respondent to the petitioners favourably.

(vi) Till the exercise is over, temporary service connections already effected to the petitioners shall not be disconnected.

(vii) The above exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Tuticorin.

2.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.



3.The Assistant Engineer,
Rural/North,
Tamilnadu Electricity Board,
Tuticorin.

4.The Block Development Officer,
Ottapidaram Taluk,
Tuticorin District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 6290, 6291
+ 2 CC TO Mr.N.SHANKAR GANESH, ADVOCATE IN SR No. 6143, 6144

SJ

TE/PM-PN/SAR-III : 16/02/2017 : 5P/8C

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