

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2018

CORAM:

THE HON'BLE MR.JUSTICE **K.K.SASIDHARAN**
AND
THE HON'BLE MR.JUSTICE **P.VELMURUGAN**

W.A No.1147 of 2014 and
M.P.No.1 of 2014

- 1.The Tamil Nadu Electricity Board,
Represented by its Chairman,
Chennai - 600 002.
- 2.The Executive Engineer (O & M)
Thiruthani, Thiruvallur District. Appellants

-Vs-

- 1.A.Jayaraman
2.Gnanammal Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against
the order passed in W.P No.8960 of 2011 dated 16.07.2014.

For Appellants : Mr.S.K.Rameshwar

For Respondents : Mr.V.Selvaraj for R1

J U D G M E N T

[Judgment of the Court was made by
K.K. SASIDHARAN,J.]

The first respondent is the absolute owner of the property in

Survey Nos.72/1B and 72/1C, Konasamudram Village, Pallipattu Taluk,

Thiruvallur District. The first respondent submitted application seeking service connection in respect of Survey Nos.72/1C and 72/1B in the year 1991. During the year 2004, one acre of land comprised in Survey No.72/1C was sold to the second respondent. The Electricity Department, instead of giving service connection to the land owned by the first respondent has given service connection to the land owned by the second respondent on the strength of the application submitted by the first respondent in 1991. The first respondent submitted representation. The representation was considered by the Executive Engineer in the light of the direction in W.P.No.29958 of 2008. The representation was rejected by the Executive Engineer on the ground that the property in Survey No.72/1C belongs to some other person, viz., the second respondent, who is the owner of the said property. The said order was challenged in the writ petition in W.P.No.8960 of 2011.

2. The writ petition filed by the first respondent challenging the order dated 26 July 2010 was considered by the learned single Judge and a direction was given to maintain the original seniority with regard to the service connection in Survey No.72/1B in the name of the first respondent. The order is under challenge at the instance of the appellants.

3. We have heard the learned Standing Counsel for the appellants. We have also heard the learned counsel for the first respondent. None appeared on behalf of the second respondent.

4. The first respondent filed the writ petition with a contention that he submitted application for agricultural connection in respect of the land in S.Nos.72/1B and 72/1C. The application was given on 25 February 1991. The documents produced by the appellants clearly proved that the land in S.No.72/1B was purchased only in 2008. While making application on 25 February 1991, the first respondent was in possession of only the land in S.No.72/1C. The contention taken by the first respondent that the application was in respect of S.No.72/1C and 72/1B is *per se* false.

5. The land in S.No.72/1C was transferred to the third respondent. The application for agricultural service connection was registered in the name of the first respondent. Thereafter, it was transferred to the name of the second respondent. The first respondent is disputing the genuineness of the application for name transfer, which is found at page 11 of the typed set of papers. It would not be possible for this Court to decide the question of fabrication of records for the

purpose of transfer of connection in the proceedings under Article 226 of the Constitution of India.

6. The learned single Judge issued a direction to the appellants to give preference to the first respondent for giving electricity connection in his land in S.No.72/1B taking into account his original application dated 25 February 1991 in respect of the land in S.No.72/1C. No such direction can be given in view of the fact that the land in S.No.72/1B was purchased only in 2008. We are therefore of the view that the learned single Judge was not correct in directing the appellants to maintain the original seniority with regard to the application for service connection made by the first respondent. The order is set aside.

7. The first respondent is now disputing the signature found in the transfer application. It is always open to the first respondent to take up the issue of fabrication of records before the appropriate authority. In case, the first respondent is in a position to demonstrate that his signature was forged and if a finding to that effect is given, necessarily suitable action should be taken by the electricity department for disconnection of supply to the land in S.No.72/1C given on the strength of the application dated 25 February 1991.

8. The intra court appeal is disposed of with the above direction.

No costs. Consequently, connected miscellaneous petition is closed.

(K.K.SASIDHARAN, J.) (P.VELMURUGAN, J.)
5 March 2018

svki

Index : Yes/No



WEB COPY

**K.K.SASIDHARAN,J.
and
P.VELMURUGAN,J.**

(svki)



W.A No.1147 of 2014

WEB COPY

05.03.2018