

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.04.2018

Coram

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.160 of 2015
and M.P.No.1 of 2015

R.Damodaran

.... Appellant/Petitioner

Vs.

1. Tamilnadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
(Marshal Road), Egmore,
Chennai - 600 008.
2. The Chairman,
Consumer Grievance Redressal Forum
(SE) CEDC,
Circle/South/TANGEDCO,
110 K.V.S.S. Complex,
K.K.Nagar, Chennai - 600 078.
3. The Executive Engineer,
Chennai EDC/South/TANGEDCO
Mullai Nagar, Tambaram,
Chennai - 600 045.
4. The Assistant Engineer (O & M)
Kadaperi Section
Chennai EDC/South/TANGEDCO,
Kadaperi, Tambaram (West),
Chennai - 45.

5. Mrs.Jayanthi Sekar

.... Respondents/Respondents

This Writ Appeal is filed under clause 15 of the Letters Patent against the order dated 21.07.2014 made in W.P.No.34722 of 2013 on the file of this Court, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent and quash the orders passed in A.P.No.4 of 2012 dated

16.7.2012 and direct the 3rd respondent to disconnect the electricity service connection with immediate effect.

For Appellants : Mr.S.Makesh

For Respondent : Mr.S.K.Rameshwar - R1 to R4

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN.J.)

The appellant has filed Writ Petition in W.P.No.1198 of 2014 challenging the orders dated 16.07.2012 and 01.10.2013 in A.P.Nos.4 of 2012 and 63 of 2013 on the file of the Tamil Nadu Electricity Ombudsman, whereby and where under the statutory authority directed the parties to maintain status quo.

2. The purchaser of the property has filed a Writ Petition in W.P.No.34722 of 2013 challenging the very same order passed by the Tamil Nadu Electricity Ombudsman.

3. The learned single Judge took up both the Writ Petitions together and having found that the parties are already before the Civil Court, dismissed the Writ Petitions. The learned single Judge granted liberty to the parties to approach the Civil Court for appropriate relief. While giving such liberty, the learned single Judge observed that the order of status quo directed to be maintained by the Ombudsman would not affect the interest of both parties.

4. Feeling aggrieved by order dated 21.07.2014, the appellant has come up with this intra court appeal.

5. The learned counsel for the appellant contended that the Tamil Nadu Electricity Ombudsman was not correct in directing the parties to maintain status quo. According to the learned counsel, the mandatory procedure was not followed by the electricity authorities while effecting transfer of connection in favour of the purchaser, who filed a Writ Petition in W.P.No.34722 of 2013. Since no such procedure was followed, the Ombudsman was not correct in directing the parties to maintain status quo, without ordering status quo ante to be preserved, pending disposal of the civil proceedings.

6. The learned counsel for the Electricity Board on the other hand submitted that pursuant to the application submitted by the 5th respondent along with a copy of the documents, service connection was transferred in her name. According to the learned counsel, the Electricity Department would abide by the Civil Court decree and in the event of decreeing the suit filed by the appellant, the name would be changed with notice to the purchaser, who filed the Writ Petition in W.P.No.34722 of 2013.

7. The power agent of the appellant appears to have executed a sale deed in favour of the 5th respondent. The 5th respondent got the service connection changed in her name on the strength of the registered document. There were litigations between the parties before the Civil Court. The suit for injunction filed

by the 5th respondent was decreed by the trial Court. The decree was upheld by the first appellate Court. We are informed that the related Second Appeal is pending before this Court.

8. The appellant has filed a Civil Suit in O.S.No.85 of 2008 before the District Munsif Court, Tambaram for setting aside the Power of Attorney on the basis of which the document was executed by the power agent in favour of the 5th respondent. The Suit is stated to be pending.

9. The appellant and the 5th respondent have filed individual Writ Petitions before the Writ Court challenging the order passed by the Tamil Nadu Electricity Ombudsman. The learned single Judge directed the parties to approach the Civil Court. Since the very right claimed by the parties are in dispute, it would not be possible for the Writ Court to decide the matter on the basis of the affidavit and counter affidavits. It is essentially a matter for evidence. The appellant has already filed a Civil Suit. The Suit filed by the 5th respondent for injunction has already been decreed by the Civil Court in favour of the 5th respondent.

10. In view of the finding given by the Civil Court in the Suit filed by the 5th respondent, it would not be possible for this Court to direct the Tamil Nadu Electricity Board to change the service connection in the name of the appellant. The learned single Judge was therefore correct in directing the parties to approach the Civil Court by confirming the order passed by the Tamil Nadu Electricity Ombudsman to maintain status quo. We do not find any error in the order passed by the learned single Judge warranting our interference.

11. In the upshot, we dismiss the intra Court appeal. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IX)

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सत्यमेव जयते

Sub Assistant Registrar

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To

1. Tamilnadu Electricity Ombudsman,
19-A, Rukmini Lakshmipathy Salai,
(Marshal Road), Egmore,
Chennai - 600 008.

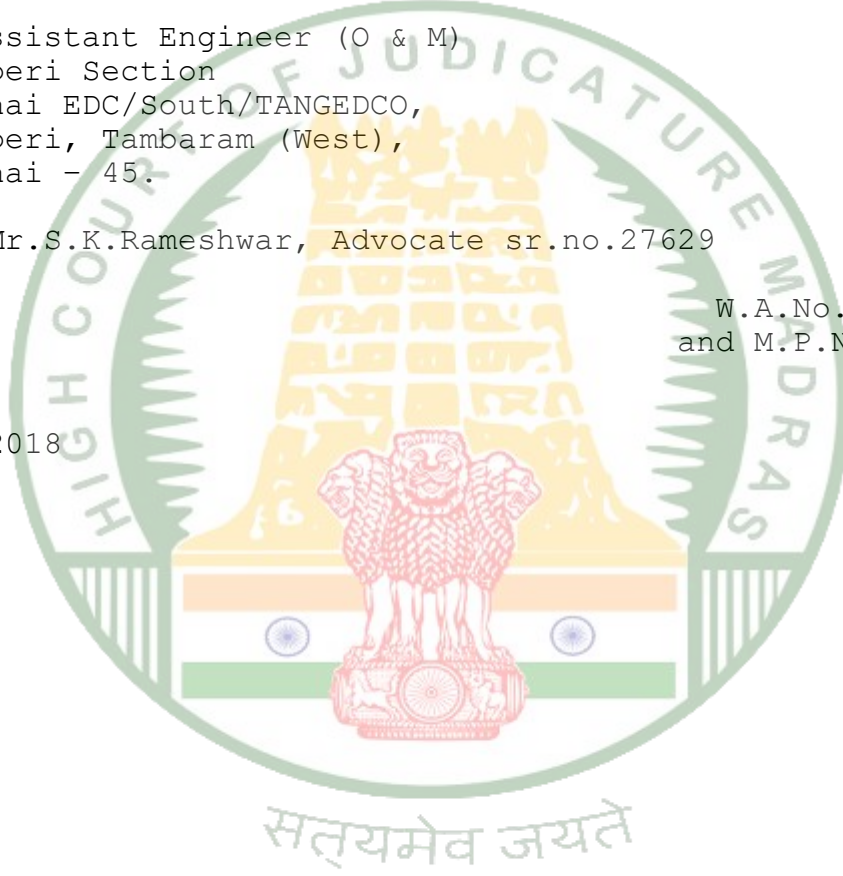
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Kadaperi, Tambaram (West),
Chennai - 45.

+1cc to Mr.S.K.Rameshwar, Advocate sr.no.27629

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