IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.8.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1865 of 2018
and
C.M.P.No.14968 of 2018

K.Thirupathiraja Appellant

Versus

1. N.Somasundaram

2. The Assistant Engineer
Operation & Maintenance/Urban
TANGEDCO Attur 636 102
Salem District. Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 5.6.2016 passed in W.P.No.2916 of 2018 on the file of this court.

Prayer W.P.No.2916 of 2018:
Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus calling for the records pertaining to the impugned order passed by the respondent in Na.Ka. No.OoPo/ EePa/ Na/ Aa/ Ko.Thani/ No.178/ 17-18 dated 06.12.2017 and to the quash the same and consequently to direct the respondent to provide the Electricity Service Connection to the petitioner shop No.365, Ranipet Main Road, Attur Town, Salem District.

For appellant : Mr.M.N.Balakrishnan
For R2 : Mr.S.K.Raameshuwar

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.S.K.Raameshuwar, learned counsel, who takes notice for the second respondent.

2. The writ appeal has been filed by a third party to the writ petition, who is said to be a tenant having litigation with the writ petitioner over the ownership of the subject premises, challenging the order passed by the learned Single Judge

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directing the Tamil Nadu Electricity Board to provide electricity service connection to the shop of the writ petitioner.

3. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the learned Single Judge, on appreciating the factual aspects that the appellant had failed in his attempts to get possession of the property by filing Crl.O.P. No.27857 of 2012 which went upto the level of Supreme Court and he has also filed two suits in O.S.Nos.196 of 2014 and 214 of 2014 before the Sub Court, Attur seeking a declaration that the Gift Deeds executed in favour of the writ petitioner/first respondent herein are null and void and finding that pendency of such suits cannot be an impediment to provide electricity connection to the writ petitioner's shop, has rightly directed for provision of electricity connection.

4. Therefore, in our view, the appellant, who seems to be a tenant, having squatted over the subject property for several years and initiated litigations against the first respondent/landlord, tries to make out a new case to harass him, which cannot be entertained, but, has to be deprecated. Therefore, we are not inclined to interfere with the order passed by the learned Single Judge. However, considering the fact that already disputes are pending between the appellant and the first respondent over the ownership of the subject property, we make it clear that the appellant is at liberty to move the civil court to avail his remedy, as advised by the learned Single Judge. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS iv)

//True Copy//

Sub Assistant Registrar

ssk.

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To:

The Assistant Engineer
Operation & Maintenance/Urban
TANGEDCO Attur 636 102
Salem District.

W.A.No.1865 of 2018

ASK(24/10/2018)

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