

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2916 of 2018 and
W.M.P. No.3584 of 2018

N.Somasundaram

..

Petitioner

-vs-

The Assistant Engineer,
Operation and Maintenance /Urban,
TANGEDCO, Attur – 636 102,
Salem District.

..

Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in Ka.No.OoPo/EePa/Na/Aa/Ko. Thani/No.178/17-18 dated 06.12.2017 and to 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 petitioner :: Mr.S.Joel

For Respondent :: Mr.S.K.Rameshwar,
Standing Counsel

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ORDER

This writ petition has been filed challenging the impugned order passed by the respondent in Ka.No.OoPo/EePa/Na/Aa/Ko.Thani/No.178/17-18 dated 06.12.2017 and seeking a direction to the respondent to provide electricity

service connection to the petitioner's shop No.365, Ranipet Main Road, Attur Town, Salem District.

2.Learned counsel appearing for the petitioner, in support of the prayer, would submit that the petitioner is the owner of the property in question and a part of the portion of the petitioner's property was under illegal occupation of the tenants namely K.A.Thirupathi Raja, K.T.Rajam and K.T.Srinivasan and now the same is kept vacant. Subsequently, the petitioner has applied for electricity service connection for commercial purpose to his shop No.365, Ranipet Main Road through registered post on 13.11.2017, but the same was rejected on the ground that the order of this Court dated 29.04.2013 directed the respondent to keep the place vacant. Learned counsel for the petitioner further submitted that when the above said tenant namely K.A.Thirupathi Raja has filed CrI.O.P. No.27857 of 2012 seeking direction to respondents 1 and 2 to put the petitioner in possession of the property viz. No.365, Salem-Cuddalore Main Road, Ranipettai, Attur, Salem District, this Court, by order dated 30.08.2013, has disposed of the petition granting liberty to the petitioner therein to seek possession of the subject property in the manner known to law and aggrieved by the same, an S.L.P. No.2882 of 2014 has been filed unsuccessfully and the same was dismissed on 14.11.2014. Pursuant to the dismissal of the said S.L.P., the above said tenants namely K.A.Thirupathiraja, K.T.Rajam and K.T.Srinivasan

have preferred a Criminal Original Petition seeking a prayer to quash the F.I.R. Registered as Crime No.16 of 2012 and this Court, by order dated 31.08.2015 closed the above said CrI.O.P. Therefore, learned counsel for the petitioner prays for a direction to the respondent to provide electricity service connection to the petitioner's above said shop.

3.Learned counsel appearing for the respondent would submit that in view of the pendency of the matters before this Court, in respect of the property in question, the impugned order has been passed. This apart, the above said K.A.Thirupathi Raja has filed two Suits in O.S. No.196 of 2014 on the file of the Sub Court, Attur seeking relief against the petitioner and O.S. No.214 of 2014 seeking relief of declaration declaring the two Gift Deeds executed in favour of the petitioner as null and void.

4.No doubt, the above said suits are pending and there is no finality reached in any one of them. However, the pendency of these two suits, in my considered opinion, cannot be an impediment to provide electricity connection to the petitioner's shop as the aforementioned two suits pending on the file of the Sub Court, Attur are with regard to the validity of the Gift Deeds registered in favour of the petitioner as Document No.232 of 2004 dated 03.02.2004 and Document No.1669 of 2012 dated 30.03.2012 on the file of the Sub Registrar,

T.RAJA, J.
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Athur. Therefore, I do not find any impediment to direct the Electricity Department to provide electricity service connection to the petitioner's shop, after obtaining a bond to be executed by the petitioner, since providing electricity service connection is not going to alter the title or owner ship of the property. This Court, hereby directs the respondent to provide electricity service connection, after obtaining a bond to be executed by the petitioner, subject to the result of the Civil Suits pending on the file of the Sub Court, Attur.

5. Accordingly, this writ petition is disposed of. No costs. Consequently, connected W.M.P. is closed.

Speaking/Non speaking order

05.06.2018

Index : yes/no
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To

The Assistant Engineer,
Operation and Maintenance /Urban,
TANGEDCO, Attur – 636 102,
Salem District.

W.P. No.2916 of 2018