

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18765 of 2017
and
WMP No.20285 of 2017

Praveen Kumar

..Petitioner

Vs.

1.The The Assistant Engineer,
O & M/CEDC/SOUTH/TNEB,
Tamil Nadu Electricity Board,
Nandambakkam, Chennai.

2.Kaliyaperumal Thirukovil,
Kolapakkam Villave,
rep.by its Executive Officer,
Having office at Nageshwara
Swamy Temple,
Kunnathur Village & Post,
Sriperumpudur Talluk,
Chennai-600 069.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus , calling for the records on the file of the 1st respondent in Letter No. க,எண்,உமிபோ/ இ,ப,நன் தம்பாக் கம் / .சூகா,தளி,ஆ,எண், 2017 / .நாள் -6.7.2017 and quash the same and further direct the 1st respondent to provide electricity to Connection the petitioner's property in Old Survey No.191/2 (Part) in Patta No.236, as per Patta New S.No.409/1 and 409/5 at Kolapakkam village, Sriperumpudur Taluk.

For Petitioner : Mrs.Srividya
for Mr.K.V.Sajeev Kumar

For Respondents: Mr.S.K.Raameshuwar for R1
Standing Counsel

Mr.M.Maharaja for R 2
Spl.Govt.Pleader (HR & CE)

Mrs.S.Gomathi Lakshmi
Advocate Commissioner.

O R D E R

The impugned order passed by the Assistant Engineer-first respondent in proceeding dated 06.07.2017, is under challenge in this writ petition. The impugned order states that the Civil Suit between the parties are pending before the District Munsif Court, Sriperumpudur in respect of the title and ownership, and therefore, electricity service connection cannot be provided in the name of the writ petitioner. Challenging the same, the present writ petition is filed.

2.The learned counsel for the writ petitioner states that the petitioner purchased the land described in the writ petition by way of sale deed dated 08.09.2011 in D.No.5608/2011, and therefore, the petitioner became an absolute owner of the property. When the petitioner commenced the construction in the said property in 2017, there was an objection from the second respondent, and subsequently, a Civil Suit was filed before the District Munsif Court, Sriperumbudur in O.S.Nos.42 and 43 of 2017. The suit is for declaration of title and for possession. Admittedly, the Civil Suit between the parties are now pending before the Competent Civil Court of law.

3.The Advocate Commissioner was appointed to inspect the property, submitted her report on 14.02.2018. The Advocate Commissioner states that she inspected the property in Old S.No.191/2 (part) in Patta No.36 as per patta new S.No.409/1 and 409/5 at Kolapakkam Village, Sriperumpudur Taluk. Further, it is stated that "there is a compound wall and one shed is there to an extent of 4.84 sq.feet and also a well in the depth of 10 to 11 feet is there. Apart from that there are three tender coconut saplings and one banana sapling are also there." As per the report there is no completed building in existence in the said property, the learned counsel for the petitioner also states that the petitioner just proposed to commence construction of the building and was not made any progress. This being the factum of the case, this Court is of an opinion that title and ownership in respect of the property in question is to be adjudicated before the Competent Civil Court of law and only after the disposal of the Civil litigations the respective parties can make necessary application for all other facilities including providing electricity service connection or water connections. If at all, any interim relief ought to be

obtained, the same also must be done only by way of filing interlocutory applications in the pending suit and this Court in a writ jurisdiction cannot adjudicate such complex, facts and circumstances arisen from and out of the title and ownership. Thus, the parties are at liberty to move through the Competent Civil Court of law for the redressal of their grievances and the writ Court cannot issue any direction in respect of providing service connections or otherwise. In view of the fact that the second respondent temple has also filed a Civil Suit in O.S.Nos.42 and 43 of 2017 for declaration of title and possession and the same is pending.

4. The petitioner is directed to pay a sum of Rs.10,000/- towards the additional and final remuneration to the Advocate Commissioner, and the payment is to be made within one week from the date of receipt of copy of this order.

5. Accordingly, the writ petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Assistant Engineer,
O & M/CEDC/SOUTH/TNEB,
Tamil Nadu Electricity Board,
Nandambakkam, Chennai.

2. Kaliyaperumal Thirukovil,
Kolapakkam Villave,
rep. by its Executive Officer,
Having office at Nageshwara
Swamy Temple,
Kunnathur Village & Post,
Sriperumpudur Talluk,
Chennai-600 069.

+1cc to Mr.K.V.Sajeen Kumar, Advocate, S.R.No.58557

+1cc to the Government Pleader, S.R.No.58525

W.P.No.18765 of 2017

RR(CO)

GSP(17/09/2018)