

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.24424 of 2018

and

W.M.P.No. 28464 of 2018

1. V.Jitesh Kumar
2. V.Sangeeta Kumari

... Petitioners

Vs

- 1.The Commissioner,
Corporation of Chennai,
Rippon building, Chennai - 600 003.
- 2.Tamil Nadu Generation and
Distribution Corporation Ltd.
Rep. by its Chairman,
10th Floor, MPKRR Maaligai,
144, Anna Salai, Chennai.
- 3.The Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.
Zone-V, Vepery, Chennai.
- 4.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irvin Road,
Egmore, Chennai - 600 008.

... Respondents

[R4 impleaded vide as per Court order dt.26.09.2018 by RMDJ
in W.M.P.No.29588 of 2018 in W.P.No.24424 of 2018]

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd and 3rd respondents to restore electricity supply at Door No.49/107, Madex Street, Choolai, Chennai - 600 007, so as to enable the petitioners to commence and complete the rectification works as ordered by the Government.

For Petitioners: Mr.M.S.Govindarajan
For Respondents: Mr.S.Saravanan for R1
: Mr.P.R.Dilip Kumar
Standing Counsel for R2 & R3
: Mr.P.S.Ganesh
Standing Counsel (CMDA) for R4

O R D E R

The prayer sought for herein is a writ of mandamus directing the second and third respondents to restore electricity supply at Door No.49/107, Madex Street, Choolai, Chennai - 600 007, so as to enable the petitioners to commence and complete the rectification works as ordered by the Government.

2.The short facts which are required to be noticed for the disposal of the writ petition are that, the petitioner obtained approval from the concerned authority for construction of residential building at Door No.49/107, Madex Street, Choolai, Chennai - 600 007. However, on completion of the construction, certain violation under which construction had been made beyond the approval given by the authorities, had been noticed. Therefore, in order to regularize such violation, the petitioners seem to have made an application, however, the said application was rejected.

3.Subsequently, by order dated 14.06.2018, at the request of the petitioners, the Housing and Urban Development Department has passed an order, directing the CMDA authorities, i.e. the 4th respondent herein, to de-seal the premises, which has already been sealed in view of the violation noticed. The said order dated 14.06.2018 was passed by the Government on the following conditions.

"3. The Government have considered the difficulties suffered by the appellants and the undertaking given by them in para 2 above. After careful consideration the Government accept the request of the appellants Tvl.Jitesh Kumar and Sangeethakumari, Chennai and direct the Chennai Metropolitan Development Authority to de-seal their building at Door No.49/107, Madex Street, Choolai, R.S.816, Block No.20, Vepery Village, Chennai for a period of three months subject to the condition that:

- i.the appellant must produce approved plan from the Greater Chennai Corporation for the portions to be demolished before de-sealing the building.
- ii.The rectification work to make the building to comply with the regulations must be completed within the period of three months from the date of de-sealing.
- iii.the demolition must be carried out in a safe manner without causing any nuisance or disturbance to the neighbours.
- iv.The building should not be occupied."

4.Pursuant to the said order passed by the Government, the CMDA had de-sealed the premises enabling the petitioners to pull down or erase or demolish the unapproved portion of the construction made by the petitioners within a period of three months, as given by the Government. However, it seems

that, within the said period of three months, the petitioners were not able to demolish the unapproved portion.

5. In this context, it is the case of the petitioners that, since, the electricity service connection on temporary basis, given already to the petitioners premises had been disconnected, because of the sealing of the premises by the CMDA, as a result, there had been no power supply in the premises. Without power supply, the petitioners were not able to utilise the machinery for the purpose of demolition of the unapproved portion.

6. Only in that context, the petitioner has approached the respondent TANGEDCO to restore the service connection of the petitioners premises, only for the limited purpose of erasing or demolishing the unapproved portion, as directed by the authorities within the time given by the State Government through the order referred above. Since, the said request of the petitioner dated 07.08.2018 was not considered by the respondent TANGEDCO, the petitioners have approached this Court with the present writ petition with the aforesaid prayer.

7. I have heard, Mr.M.S.Govindarajan, learned counsel appearing for the petitioners, who would submit that, only for the limited purpose as set out above, the request has now been made to the respondent TANGEDCO to extend the electricity service connection and if such a service connection is extended to petitioners, no prejudice would be caused to anyone, including the respondent TANGEDCO and therefore, the said application can be directed to be considered and electricity service connection can be directed to be restored.

8. I have heard Mr.P.S.Ganesh, learned counsel appearing for CMDA, who would submit that, pursuant to the order passed by the Government dated 14.06.2018, the premises was de-sealed on 21.06.2018 giving three months time for the petitioners to demolish the unapproved portion. However, within said three months given, since, the petitioners were not able to demolish the unapproved portion, after completion of three months, once again the premises has been sealed and it is now under the seal and therefore, the petitioner, if at all is considered for giving further extension of time, to demolish the building on the ground that electricity supply has not been available so far in the premises, the same can be restored strictly within the time frame, within which, the petitioner shall be able to demolish the building and for that purpose alone, the premises can be de-sealed once again.

9. Mr.P.R.Dilip Kumar, learned Standing Counsel appearing for the TANGEDCO would submit that, already the petitioner was extended temporary service connection, which was disconnected because of the sealing of the premises for the alleged violation and if, the petitioner now seeks for restoration of

electricity for the limited purpose of demolishing the unapproved portion, and for that limited purpose, the TANGEDCO would restore the electricity service connection only for a limited period that may be fixed by this Court.

10.I have heard the submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

11.After having heard the parties concerned, through their respective counsel, this Court is of the view that, since, the petitioner has come forward to demolish the unapproved portion, and for the purpose of the said demolition work, since, the machinery have to be pressed into service, for which certainly power consumption is required, therefore, it becomes absolute necessity to restore the electricity connection, which has already been suspended. Taking into account the order already passed by the Government on 14.06.2018, whereby, three months time was given and within the said time, the petitioner was not able to demolish the unapproved portion for want of electricity, allowing the petitioner in such a situation, where there is no electricity and because of which, he is not able to demolish the unapproved portion, and because of the non demolition of the unapproved portion, the entire premises is to be kept under lock and seal, would no way be beneficial to any of the parties.

12.Therefore in order to give a quietus to the issue, this Court is inclined to pass the following order.

13.That the respondent TANGEDCO, considering the request of the petitioner dated 07.08.2018, shall restore the electricity service connection to the petitioners premises, only for the limited purpose of demolishing the unapproved portions, pursuant to the order passed by the State Government dated 14.06.2018 in Letter No.8960/UDI/2018-1. Enabling the TANGEDCO to restore the electricity service connection, the respondent CMDA shall de-seal the premises of the petitioners within one week. Once the de-sealing process is over within one week period, the electricity service connection is to be restored by the TANGEDCO. On restoration of the electricity service connection on temporary basis, the petitioner shall take effective steps to demolish the unapproved portion completely within a maximum period of three months.

14.It is made clear that before restoring the electricity service connection, the respondent TANGEDCO shall get an undertaking or indemnity bond from the petitioner that the service connection to be restored on temporary basis for the specific purpose, shall not be unauthorisedly utilised for any other purposes in the petitioners premises and if any violation is noticed by the TANGEDCO in this regard, suitable action under law can be taken by them. The parties shall

strictly adhere to the aforesaid time frame to undertake the direction indicated above.

15. With these directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

1. The Commissioner,
Corporation of Chennai,
Rippon building,
Chennai - 600 003.
2. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.
10th Floor, MPKRR Maaligai,
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3. The Executive Engineer,
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Zone-V, Vepery, Chennai.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irvin Road,
Egmore, Chennai - 600 008.

+ 1 cc to Mr. S. Saravanan, advocate Sr.77342
+ 1 cc to Mr. P.S. Ganesh, advocate Sr.77346
+ 1 cc to Mr. M.S. Govindarajan, Advocate Sr.78114

W.P.No.24424 of 2018

BR(CO)
EU(16/11/2018)