

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

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

W.P.No.27168 of 2018
and
W.M.P.No.31582 of 2018

Venkatachalam

..Petitioner

vs

1.The Chairman,
TANGEDCO,
Anna Salai, Chennai.

2.The Assistant Electricity Engineer,
Operation & Maintenance(West),
Tamil Nadu Electricity Board,
Tirukoilur, Villupuram District.

3.Gurusamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in proceedings D.No.AEE/O & M/W/Thiru/Div.Cont/A.No.99/17-18 dated 28.08.2017 and quash the same as illegal, incompetent and without jurisdiction and further direct the 2nd respondent to effect service connection for the property situate at S.No.27/1B measuring 1.81.cents, T.Mudiyanur Village, Thirukoilur taluk, Villupuram District based on the petitioner's application.

For Petitioner : Mr.R.Poornima

For Respondents : Mr.M.Varunkumar,
standing counsel (TNEB) for R1 & R2

O R D E R

The order of rejection issued by the 2nd respondent in proceedings dated 28.08.2017 for providing Electricity service connection to the writ petitioner's agricultural land is under challenge in this writ petition.

2.The learned counsel for the writ petitioner states that the property belongs to the writ petitioner situated at S.No.27/1 measuring 1.81.cents, T.Mudiyarur Village, Thirukoilur Taluk, Villupuram District.

3.The writ petitioner purchased the property on 27.01.2016, which is an agricultural land. The writ petitioner is in absolute possession and enjoyment of the said property and doing agricultural activities. The petitioner submitted an application seeking Electricity service connection for agricultural purposes. The case of the writ petitioner was negatived on the ground that the 3rd respondent filed a Civil Suit in O.S.No.78/2017 on the file of the Principal District Munsif Court, Thirukoilur for declaration and permanent injunction.

4.The learned counsel for the writ petitioner made a submission that there is no interim order operating against the writ petitioner as well as the official respondents 1 & 2. Mere pendency of a Civil Suit will not be a bar for providing Electricity service connection and therefore, the impugned order of rejection is untenable.

5.The learned counsel for the respondents state that the 3rd respondent filed a complaint / objection before the respondents 1 & 2 for providing Electricity service connection to the writ petitioner for agricultural purposes on the ground that he filed a Civil Suit in O.S.No.78/2017 for declaration and permanent injunction. On account of the objection raised by the 3rd respondent, the Board authorities are constrained to reject the claim of the writ petitioner for providing Electricity service connection.

6.This Court is of an opinion that mere pendency of a Civil Suit or a Civil dispute between the parties will preclude the competent authorities from providing Electricity service connection, which is an essential one. The Electricity service connection has to be provided in accordance with the provisions of the Tamil Nadu Electricity Distribution Code and Tamil Nadu Electricity Supply Code. Clause 27(4) of the Tamil Nadu Electricity Distribution Code categorically enumerates that even during the pendency of the Civil Suit or the dispute between the parties, the case of the applicant can be considered for providing Electricity service connection by obtaining an indemnity bond from the applicant. Thus, by getting an indemnity bond and an undertaking from the writ petitioner, the case of the writ petitioner shall be considered for the purpose of providing Electricity service connection in accordance with the Tamil Nadu Electricity Distribution Code.

7.This being the legal principles to be followed, this Court is of an opinion that the impugned order of rejection passed by

the 2nd respondent in proceedings dated 28.08.2017, rejecting the claim of the writ petitioner only on the ground that a Civil Suit is pending cannot be accepted. Accordingly, the impugned order passed by the 2nd respondent in D.No.AEEE/O&M/W/Thiru/Div.Cont/A.No.99/17-18 dated 28.08.2017 is quashed and the respondents 1 and 2 are directed to reconsider the application submitted by the writ petitioner in the light of Clause 27(4) of the Tamil Nadu Electricity Distribution Code and pass appropriate orders, otherwise if the applications are proper, within a period of four weeks from the date of receipt of a copy of this order.

8.With this direction, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman,
TANGEDCO,
Anna Salai, Chennai.
- 2.The Assistant Electricity Engineer,
Operation & Maintenance(West),
Tamil Nadu Electricity Board,
Tirukoilur, Villupuram District.

+1cc to Mr.M.Varunkumar, Advocate sr.no.82559
+1cc to Mr.R.Poornima, Advocate sr.no.83006

W.P.No.27168 of 2018

ad(co)
nr 20/12/2018

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