

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.29622 of 2018

S.Sudhagar

...Petitioner

Vs.

1. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Chengalpattu Electricity Distribution Circle,
Chengalpattu, Kancheepuram District.

2. The Tahsildar,
Uthiramerur Taluk
Kancheepuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the first respondent herein to consider the petitioner's representation dated 09.01.2017 within time frame to be stipulated by this Hon'ble Court, seeking electricity connection for his house situated at Door No.1, Mettu Colony, 105, Peranakavur, Uthiramerur Taluk, Kancheepuram District comprised in Survey No. 171/1 (Meikal Poramboke), Peranakavur Village, Uthiramerur Taluk, Kancheepuram District without insisting for any non-objection certificate from the second respondent.

For Petitioner : Mr.G.Magesh Kumar
For Respondents : Mr.S.K.Rameshwar for R1
Mr.G.B.Rajesh,
Government Advocate for R2.

ORDER

The prayer sought for in this writ petition is for a Writ of Mandamus directing the first respondent herein to consider the petitioner's representation dated 09.01.2017 within time frame to be stipulated by this Court, seeking electricity connection for his house situated at Door No.1, Mettu Colony, 105, Peranakavur, Uthiramerur Taluk, Kancheepuram District comprised in Survey No. 171/1 (Meikal Poramboke), Peranakavur Village, Uthiramerur Taluk, Kancheepuram District without insisting for any non-objection certificate from the second respondent.

2. Heard Mr.G.Magesh Kumar, learned counsel for the petitioner who would submit that, the petitioner has been in possession and enjoyment of the house situated at Door No.1, Mettu Colony, 105, Peranakavur, Uthiramerur Taluk, Kancheepuram District comprised in Survey No. 171/1 (Meikal Poramboke).

3. In order to get electricity service connection to the said dwelling house of the petitioner, he has made the application to the first respondent. However, the first respondent seems to have not considered the same on the ground that, since the petitioner seeks electricity service connection to his dwelling house which was constructed in a Government Poramboke land and in that case, unless the Revenue authorities, especially, the Tahsildar concerned issue the No Objection Certificate, the request of the petitioner for effecting the service connection would not be considered.

4. In this context, even though the petitioner has already approached the second respondent on 10.02.2017 and also the District Collector concerned on 09.04.2018, nothing was forthcoming from them, as they keep the application of the petitioner for grant of No Objection Certificate pending and because of want of No Objection Certificate since the first respondent has not effected the service connection, the petitioner has approached this Court with the aforesaid prayer.

5. In this context, the learned counsel appearing for the petitioner would rely upon the judgement of this Court in the similar circumstances passed by the learned Judge in W.P.(MD)No.9722 of 2015 dated 17.06.2015 in the case of T.Senthil and another Vs. The Assistant Engineer (Operation and Maintenance), TANGEDCO, Pudukkottai District and two others.

6. I have heard Mr.S.K.Rameshwar, learned standing counsel for the first respondent and Mr.G.P.Rajesh, Government Advocate for the second respondent.

7. Learned counsel for the first respondent would submit that, as per Clause 27 (2) (12), which got amended, in respect of the house or building located in Government Poramboke land, service connection cannot be effected unless the consumer or the occupier who seeks for such electricity service connection obtain and produce No Objection Certificate from the Tahsildar concerned and further produce an indemnity bond as required by the respondent Tahsildar.

8. In the case in hand, since the petitioner has not produced any No Objection Certificate from the Tahsildar

concerned, his request cannot be considered. At the same time, the learned Standing Counsel would submit that, once the petitioner is able to get No Objection Certificate from the Tahsildar concerned and produce the same along with indemnity bond, certainly, his request for electricity service connection would be considered and service connection, if he is otherwise eligible, would be given immediately.

9. Mr.G.B.Rajesh, learned Government Advocate appearing for the second respondent would submit that, the request of the petitioner made to the second respondent in the month of February 2018 seeking No Objection Certificate would be considered on merits and an order to that effect would be passed for grant of No Objection Certificate after verifying the claim of the petitioner whether he has put up the construction and residing in the dwelling house constructed by him in the Government Poramboke land.

10. I have considered the said rival submissions made by the learned counsel for the parties and perused the materials placed before this Court.

11. I have gone through the order passed by the learned Judge referred to above wherein the learned judge followed the earlier order passed by this Court in Muthukannu and four others vs. Assistant Engineer (Operation and Maintenance), TANGEDCO in W.P.(MD)No.5417 of 2014 dated 09.04.2014. For easy reference, the said order in Muthukannu case as relied upon by the learned Judge in T.Senthil's case, cited supra is extracted hereunder:

6. In Muthukannu and 4 others v. The Assistant Engineer (Operation and Maintenance), TANGEDCO [W.P(MD)No.5417 of 2014, decided on 09.04.2014] ,this Court, has passed the following order:

"4. The petitioners are said to be in possession and enjoyment of the houses situated in S.F.No.731 of Seplanthoppu, Periyasuriyur Village, Thiruvarambur Taluk,Trichy District, which is classified as Poramboke. According to the petitioners, some of the residents of the nearby area obtained electricity connection on the basis of the 'no objection' certificate issued by the local Tahsildar. Even though the petitioners submitted applications for giving electricity connection, the same was rejected on the ground that they are in possession of poramboke lands. This

made the petitioners to file this writ petition.

5. The learned Government Advocate on instruction submitted that the Tahsildar is prepared to give 'no objection' certificate for the purpose of taking electricity connection to the residence of the petitioners, in case they submit individual affidavits, undertaking to vacate the property whenever notice is issued to that effect by the Government.

6. The learned Standing Counsel for the Tamil Nadu Generation and Distribution Corporation Limited submitted that the 1st respondent is prepared to provide electricity connection to the petitioners, in case 'no objection' certificate is obtained from the Tahsildar.

7. The learned counsel for the petitioners submitted that the petitioners are prepared to execute an affidavit before the Tahsildar to the effect that they will vacate the property in the event Government requires the lands.

8. The petitioners are directed to approach the Tahsildar, Thiruvarambur to execute an undertaking affidavit to the effect that they will vacate the property in the event Government requires the lands, for the purpose of obtaining 'no objection' certificates for electricity connection. In case the petitioners give any such undertaking to vacate the property, necessarily 'no objection' certificate should be given by the Tahsildar, Thiruvarambur within two weeks from the date of receipt of such undertaking. Similarly, in the event of producing 'no objection' certificates by the petitioners before the first respondent, the application for electricity connections should be considered and disposed of within a period of two weeks from the date of receipt of application.

9. The Writ Petition is disposed of with the above direction. No costs."

12. Following the said decision in Muthukannu case, similar order was passed by the learned Judge in T.Senthil's case vide order dated 17.06.2015. It is submitted by the learned counsel appearing for the petitioner that, similar orders were passed in number of cases and therefore, in the case of the petitioner also, since he is similarly placed as he has already made an application to the second respondent/Tahsildar seeking No Objection Certificate, suitable direction can be given.

13. Following the said dictum made by the learned Judge in the judgment referred to above, which has been consistently followed in number of cases, I am inclined to pass the following order:

(i) The second respondent is hereby directed to consider the request of the petitioner dated 10.02.2017 seeking No Objection Certificate for the purpose of producing the same to the first respondent for effecting electricity service connection to the dwelling house of the petitioner and decide the same on merits and in accordance with law.

(ii) While considering the same, if the second respondent needs an affidavit of undertaking to be filed by the petitioner stating that as and when the Government requires the land in which the building is constructed by the petitioner, for which he seeks for electricity service connection, the petitioner without any hesitation and delay and objection would immediately vacate the premises enabling the Government/Revenue authorities to utilise their lands, such undertaking affidavit shall be filed by the petitioner.

(iii) If the said undertaking affidavit to the satisfaction of the second respondent is given by the petitioner, the second respondent on such satisfaction shall give No Objection Certificate to the petitioner with a condition that, since the land in which the building constructed by the petitioner is a Government Poramboke land, at any time when the land is required and it is demanded, the petitioner shall vacate the same and on further condition that mere giving of the No Objection Certificate for the purpose of getting electricity service connection shall not confer any right whatsoever on the petitioner either for seeking any assignment in his favour or seeking for continuous occupation and

possession of the land in question.

(iv) On receipt of such No Objection Certificate, the petitioner shall produce the same before the first respondent and once the No Objection Certificate is produced by the petitioner, the first respondent shall effect the service connection to the petitioner within a period of two weeks from the date of receipt of No Objection Certificate from the petitioner.

(v) In this regard, the Tahsildar shall pass orders within a period of two weeks from the date of receipt of a copy of this order. Within the said time, the necessary affidavit of undertaking as indicated above shall also be filed by the petitioner. Along with No Objection Certificate, the petitioner shall also produce the necessary indemnity bond and also pay the double service charges as contemplated under the relevant regulations. On satisfying all these compliances, the needful as indicated above for effecting the service connection shall be undertaken by the first respondent within a time frame set out by this Court.

With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Chengalpattu Electricity Distribution Circle,
Chengalpattu, Kancheepuram District .
2. The Tahsildar,
Uthiramerur Taluk,
Kancheepuram District.

+1cc to Mr. G.Magesh Kumar, Advocate SR.No. 77862

+1cc to Mr.S.K.Rameshwar , Advocate SR.No.78254

W.P.No.29622 of 2018

ASK(16/11/2018)