

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2018

CORAM

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

W.P.No.30781 of 2018
and
W.M.P.No.35920 of 2018

M.Vanitha

..Petitioner

vs

1.The Assistant Engineer,
O & M/Tagore Nagar,
Ayanavaram,
Chennai - 23.

2.B.K.Rajeshwari

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to the rejection order issued by the 1st respondent in Lr.No:AE/O&M/TGR.NGR/f.service connection/D.N:166/18 dated 29.10.2018 and quash the same consequently direct the 1st respondent to restore the electricity connection to the petitioners resident in service connection No.0-29-024-249.

For Petitioner

: Mr.M.Sathish Kumar

For Respondents

: Mr.P.R.Dhilipkumar,
standing counsel
for TNEB for R1

O R D E R

The order of rejection dated 29.10.2018 issued by the Assistant Engineer, Ayanavaram is under challenge in this writ

petition.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that he had entered into sale agreement with the 2nd respondent on 13.08.2011 and on execution of the sale agreement, the 2nd respondent had received an advance amount of Rs.10,50,000/- (Rupees Ten Lakh and Fifty Thousand only) and after receiving the sale advance, the 2nd respondent failed to execute the sale agreement despite the fact that the petitioner was willing to settle the balance amount.

3.The grievance of the writ petitioner is that he is in occupation of the premises, wherein he seeks Electricity Service Connection. However, the respondents rejected the claim of the writ petitioner on the ground that the petitioner had not produced the following documents:

- 1.Proof of ownership (Sale deed/gift settlement/allotment letter/computer patta/ownership certificate/court judgement or recent property tax receipt)
- 2.Legal Heir certificate
- 3.Consent letter from the owner.

4.It is contended that on account of the dispute in respect of the execution of the sale deed between the petitioner and the 2nd respondent, the writ petitioner is unable to produce the consent letter from the owner and as well as the proof of ownership. The writ petitioner is in possession of the premises only as an agreement holder and sale deed is yet to be executed by the original owner. In view of the fact that the writ petitioner had paid a substantial advance to the original owner, he was allowed to continue in the possession of the premises. Under these circumstances, the petitioner states that he cannot reside in the premises without any Electricity service connection, which is an essential service.

5.The learned counsel appearing on behalf of the respondents disputed the contention by stating that as per the Electricity Distribution Code, only in the event of submitting all the necessary documents, the case of the writ petitioner can be considered for providing electricity service connection. Admittedly, in the present case, the writ petitioner had not submitted the requisite documents sought for by the authorities competent. Thus, there is no infirmity in respect of the order impugned passed by the respondents.

6.This Court is of an opinion that dispute between the writ petitioner and the respondents is admitted by the respective parties. Further, the writ petitioner is continuing in the premises on the basis of the agreement entered into between the writ petitioner and the 2nd respondent. However, the respondent

Board is not connected with the disputes in respect of the execution of sale agreement between the 2nd respondent and the writ petitioner. However, the Electricity service connection being an essential one, the Board has to consider the case of the writ petitioner in the light of the Clause 27(4) of the Electricity Distribution Code. Clause 27(4) of the Electricity Distribution Code, which reads as under:

"(4) An intending consumer who is not the owner of the premises he occupies shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or he refuse to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

7.As per the Clause stated supra, even during the pendency of the litigations between the parties, the Board can provide Electricity connection by obtaining necessary undertaking or an indemnity bond from the applicant concerned.

8.In the present case, by getting an indemnity bond and an undertaking from the writ petitioner, the Board can consider the case of the writ petitioner for providing Electricity connection in accordance with the Electricity Distribution Code. Electricity being an essential service, the civil disputes between the parties cannot be an impediment for providing electricity service connection to the person, who is in occupation of the premises.

9.This being the principles to be followed and when there is a provision under the Code to provide electricity connection even during the dispute, this Court is of an opinion that the reasons stated in the impugned order deserves to be reviewed.

10.Accordingly, the impugned order issued by the Assistant Engineer, O & M / Tagore Nagar, Ayanavaram, Chennai - 23 in Letter No:AE/O & M/TGR NGR/F.service connection / D.No:166/18 dated 29.10.2018 stands quashed. The respondents are directed to consider the case of the writ petitioner for providing electricity service connection by invoking their powers under Clause 27(4) of the Electricity Distribution Code, if the petitioner is otherwise eligible for getting electricity service connection in accordance with the rules concerned and if the petitioner satisfies the other conditions for providing electricity service connection.

11. Accordingly, 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)

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Sub Assistant Registrar

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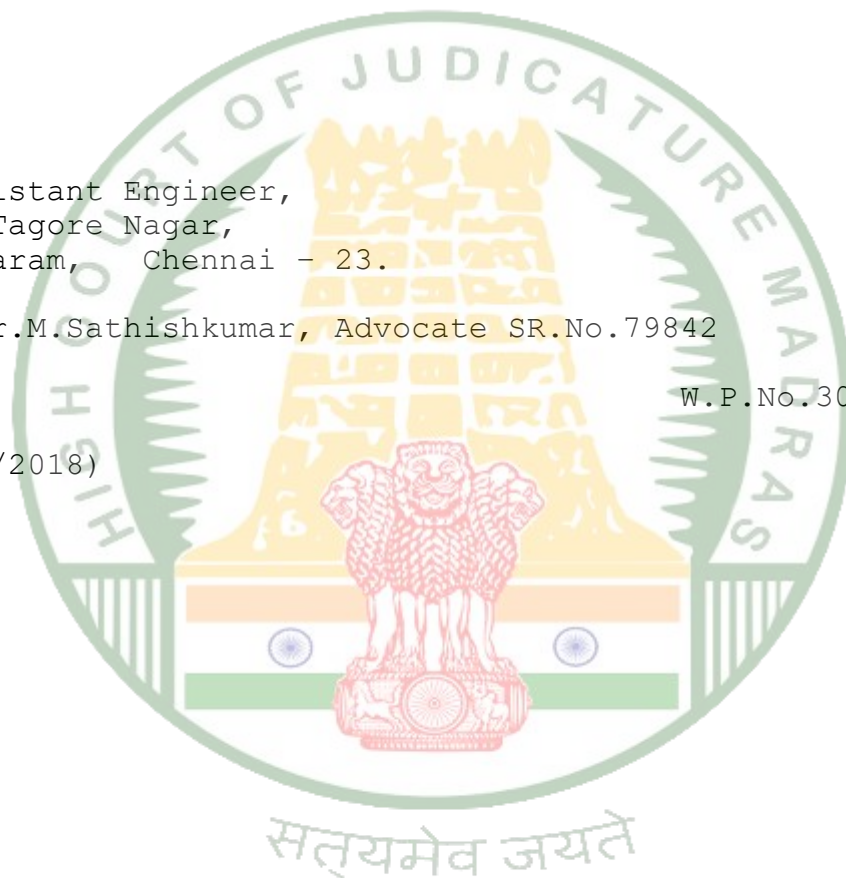
To

1. The Assistant Engineer,
O & M/Tagore Nagar,
Ayanavaram, Chennai - 23.

+2cc to Mr. M. Sathishkumar, Advocate SR.No.79842

W.P.No.30781 of 2018

GMV (28/11/2018)



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