

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM :

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.P.Nos.30691 and 30693 of 2018

B.Vijayakumar .. Petitioner in W.P.No.30691 of 2018

L.Sakunthala .. Petitioner in W.P.No.30693 of 2018

.Vs.

1.The Chairman,

Tamil Nadu Electricity Board,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Anna Salai,
Chennai - 600 002.

2.The Assistant Electrical Engineer, (O & M),

Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Tiruppur Electricity Distribution Circle,
Maniyakarampalayam, Nallur - 641 606,
Tiruppur District.

3.The Executive Officer,

Arulmigu Visveswara Swamy Temple,
Nallur, Tiruppur.

.. Respondents in both writ petitions

Common Prayer : Writ petitions in W.P.No.30691 and 30693 of 2018 filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the 2nd respondent to give two electricity service connection(s) respectively, to the petitioners' houses situated in Door No.14 in S.F.No.155, Boyar Colony, Jai Nagar, Maniyakarampalayam, Nallur, Tiruppur and in Door No.99/1 in S.F.No.133, Nallur Village, Kanchi Nagar 3rd Street, Nallur, Tiruppur, respectively.

For Petitioner : Mr.C.Prakasam
in both the writ petitions

For Respondents : Mr.S.K.Rameshwar
Standing Counsel for TNEB
for R1 and R2
in both the writ petitions

: Mr.M.Maharaja
Spl. Government Pleader (HR & CE)
for R3 in both the writ petitions

C O M M O N O R D E R

The prayer sought for in each of these writ petitions reads thus.

W.P.No.30691 in 2018 : A Writ of Mandamus, to direct the 2nd respondent to give two electricity service connections to the petitioner's house for ground and first floor situated in Door No.14 in S.F.No.155, Boyar Colony, Jai Nagar, Maniyakarampalayam, Nallur, Tiruppur.

W.P.No.30693 in 2018 : A Writ of Mandamus, to direct the 2nd respondent to give electricity service connection to the petitioner's house situated in Door No.99/1 in S.F.No.133, Nallur Village, Kanchi Nagar 3rd Street, Nallur, Tiruppur.

2.Since, the prayer sought for in these two writ petitions and the respondents in these two writ petitions are common and the petitioners of these two writ petitions are similarly placed, with the consent of both sides, both the writ petitions were heard together and are being disposed by this common order.

3.For the purpose of disposal of these two writ petitions, the facts pertaining to W.P.No.30691 of 2018 are required to be noticed.

4.In this writ petition, it is the claim of the petitioner that, the petitioner purchased house site in S.F.No.155, Nallur Village, Tiruppur Taluk & District Plot No.14, under unregistered sale deed on 21.10.2016. After purchase of the said house site to an extent of 1216 sq. ft., some construction had also been made by the petitioner. For that, the petitioner made application before the second respondent to obtain electricity service connections for ground floor and first floor, as domestic tariff, along with house tax receipt. However, the second respondent rejected the same, without passing any order. However, the second respondent seems to have given oral reason for not entertaining the application of the petitioner that, the house site where the petitioner built up house and wants the electricity service connection, belongs to the third respondent temple and the third respondent already instructed the second respondent not to give or effect electricity service connection to the petitioner's house.

5.Only in that circumstances, the petitioner has approached this Court seeking for a writ of mandamus as prayed in this writ petition.

6. Similarly other writ petitioner is also placed and she also seeks a similar relief of mandamus, directing the respondents to effect electricity service connection to her residential house.

7. Heard Mr.C.Prakasam, learned counsel appearing for the petitioners, who would submit that, the land and building, for which service connection was sought for, belongs to the petitioners and the claim of the third respondent temple has not so far been decided in any Court of law and therefore, on the basis of the alleged instructions given by the third respondent temple, the second respondent ought not to have rejected or returned the application given by the petitioners for effecting service connection, which is an essential amenity.

8. Per contra, Mr.M.Maharaja, learned Special Government Pleader, appearing for the third respondent would submit that, the land in which the petitioners built up the house or the land and building purchased by the petitioners belongs to the third respondent temple. Like the petitioners, several other people also purchased the land of the third respondent temple from various persons and therefore, merely because they had claim of having purchased, the title could not be transferred in favour of the petitioners, and in this regard, a similarly placed person already approached this Court, seeking electricity service connection in W.P.No.1502 of 2018, against the very same respondents, where also, the stand of the third respondent temple was that, the land in question belongs to the third respondent temple, and if at all, service connection to be effected, that should be effected only in the name of the temple as a temporary measure, since, electricity is an essential amenity.

9. In this context, the learned Special Government Pleader would further submit that, considering such stand taken by the temple, this Court by order dated 24.01.2018 in the matter of Saraswathi v. The Chairman, Tamil Nadu Electricity Board, TANGEDCO in W.P.No.1502 of 2018, has passed the following order :

"6. Considering the above stated facts and circumstances and the submissions made by the learned counsel appearing for the respective parties, this Court is of the view that there will be no impediment for the first respondent or the second respondent for providing the electricity supply to the petition mentioned premises, pending eviction proceedings, if the service connection is given in the name of the temple viz., Arulmigu Visveswara Swamy Temple. Needless to say that the order passed in this writ petition cannot be taken advantage by the petitioner in any manner in the other proceedings pending against him filed by the third respondent. Thus, this writ petition

is disposed of, only with a direction to the second respondent to provide the electricity connection for the petition mentioned premises in the name of the said temple, after collecting necessary charges from the petitioner. Such exercise shall be done by the second respondent within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

10.By relying upon the said order passed by this Court, the learned Special Government Pleader would further contend that, if at all, the electricity service connection have to be effected by the first and second respondents to the petitioners, that can be effected only in the name of the third respondent temple as temporary measure, and such service connection to be effected in the name of the temple for the utility of the petitioners, shall not confer any right on them and based on such electricity service connection, the petitioners in future, shall not claim any right over the property. With these conditions, if the electricity service connection could be extended to these petitioners, the respondents would have no objection.

11.I have considered the said rival submissions made by the learned counsel for the petitioners, learned Special Government Pleader for the third respondent temple and the learned Standing Counsel, appearing for the first and second respondents.

12.The learned Standing Counsel appearing for the first and second respondents also would submit that, in the light of the order referred above, if direction is given to effect service connection in the name of the third respondent temple, the first and second respondents would execute that order and the service connection would be effected in the name of the temple for the utility of the petitioners, after paying the necessary charges, as per the rules and regulations, which are in force.

13.I have considered the said submissions made by the parties and perused the materials placed before this Court.

14.This Court cannot dwell into the issue raised by the petitioners as to whether, they are the owners of the property exclusively, without the claim of the third respondent temple about the ownership. The said issue can be decided later in an appropriate proceedings between the respective petitioners and the third respondent temple.

15.However, since electricity service connection is essential amenity and admittedly, the petitioners are in

possession and enjoyment of the property in question, it becomes absolute necessity to extend service connection to these petitioners. At the same time, once electricity service connection is effected to the petitioners, they shall not take any advantage and claim ownership or title of the property, unless, it is decided by the competent Court.

16. In that circumstances, the order passed by the learned Judge in Saraswathi's case cited supra, can very well be pressed into service. Accordingly, these writ petitions are disposed of with the following directions.

(i) The first and second respondents are hereby directed to provide electricity service connection to the petitioners in the name of the third respondent temple, namely Arulmigu Visveswara Swamy Temple. For effecting such electricity service connection, necessary charges are to be paid by each of the petitioners.

(ii) It is made clear that, merely because electricity service connection is extended for the utility and enjoyment of the petitioners, they shall not take advantage of that situation, for claiming right or title over the property, where they claim ownership through the sale deed they mentioned. It is further made clear that, in future, if the ownership is decided in favour of the temple by the competent Court, the petitioners shall not claim any equity and the parties concerned, shall abide by such decision to be made in this regard.

17. With these conditions, the aforesaid directions are issued, which shall be executed by the first and second respondents within a period with outer limit of four weeks from the date of receipt of a copy of this order. Accordingly, these writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS VI)

सत्यमेव जयते

//True Copy//

Sub Assistant Registrar

mkn

To

1. The Chairman,
Tamil Nadu Electricity Board,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Anna Salai, Chennai - 600 002.

2. The Assistant Electrical Engineer, (O & M),
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Tiruppur Electricity Distribution Circle,
Maniyakarampalayam, Nallur - 641 606,
Tiruppur District.

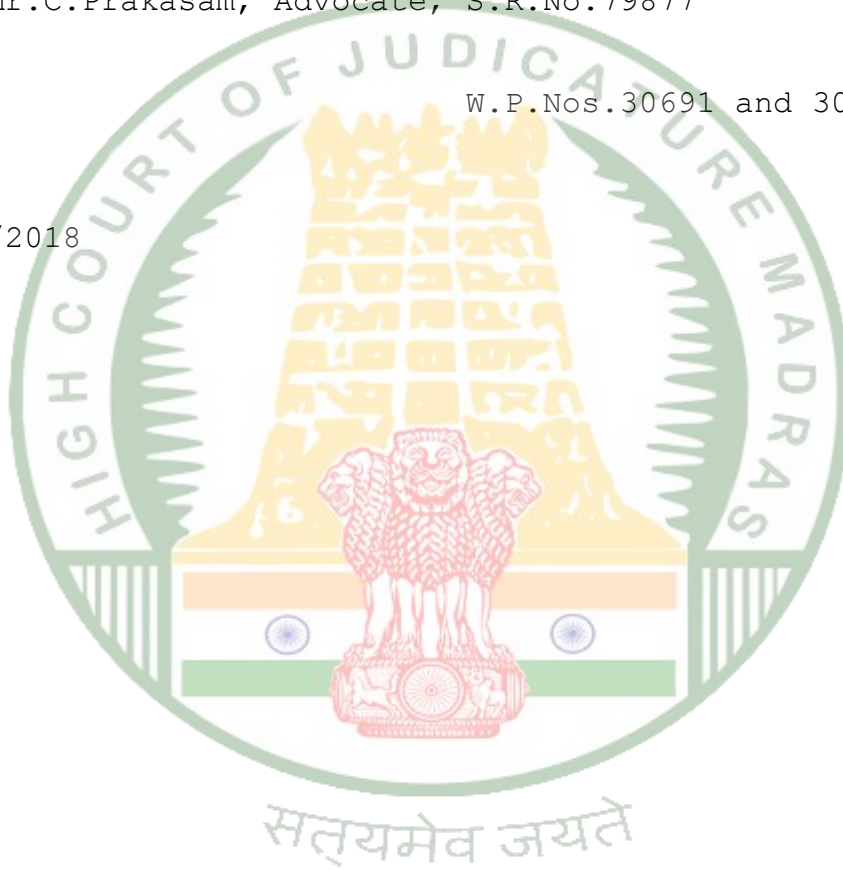
3. The Executive Officer,
Arulmigu Visveswara Swamy Temple,
Nallur, Tiruppur.

+2ccs to Mr.C.Prakasam, Advocate, S.R.No.79877

W.P.Nos.30691 and 30693 of 2018

RSK(CO)

rrs 27/11/2018



WEB COPY