



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P. (MD) No.4839 of 2018

and

W.M.P. (MD) No.4847 of 2018

M.Mallika

... Petitioner

vs.

1. The Superintending Engineer,
Electricity Supply and Distribution,
TANGEDCO, Kadayanallur,
Tirunelveli District.

2. The Junior Engineer,
Electricity Distribution - Township-2,
TANGEDCO, Kadayanallur,
Tirunelveli District.

3. Muniyasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records relating to the impugned order made in Ka.No.Oo.Se.Po/V/Kadai/Go.Pu.Petition/A.No.214/2017, dated 03.08.2017 on the file of the second respondent and to quash the same as illegal and arbitrary and consequently direct the respondents 1 and 2 herein to provide electricity service connection to the petitioner's house bearing D.No.6C69/2, Indhiranagar, Pudhu Colony, Kadayanallur, Tirunelveli District immediately.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.G.Kasinathadurai

for R.1 and R.2

: Mr.S.Sivaprakash for R.3

O R D E R

The petitioner is aggrieved by the order passed by the second respondent dated 03.08.2017 refusing to give the petitioner electricity connection to the premises under his occupation on the ground that the third respondent, who claims to be the owner of the property, has not given his consent. The said order is put to challenge in the present writ petition.



2. The learning Counsel appearing for the petitioner would submit that in view of the dispute between the petitioner and the third respondent, the third respondent is refusing to give consent and in the absence of consent, the first and second respondents have rejected the claim for electricity connection to the premises occupied by the petitioner. He would submit that the third respondent has already approached the competent civil Court for declaration of title and recovery of possession from the petitioner in regard to the subject premises.

3. Such laying of suit before the competent civil Court by the third respondent would clearly establish the fact that the petitioner is in occupation of the subject premises, in which event, he is entitled to electricity connection for the premises.

4. The learned Counsel would particularly draw the attention of this Court to Section 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, in which it is particularly provided for execution of indemnity bond in the absence of the consent from the landlord. Section 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 is extracted hereunder for understanding the contention of the petitioner:

"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 refuses 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."

5. At this juncture, the learned Counsel appearing for the third respondent vehemently opposed for giving electricity connection to the petitioner by stating that the petitioner is a trespasser and squatting on the property illegally and unjustly and therefore, he cannot be given electricity connection particularly in view of the fact that the civil case is pending between him and the petitioner. He would also express his apprehension that if electricity connection is granted in his name, the same will be used to his advantage in the civil proceedings pending between the parties.

6. The learned Counsel appearing for the respondents 1 and 2 would submit that normally in such cases where the landlord refuses to give consent for giving electricity connection, the TANGEDCO would obtain indemnity bond from the tenant and on such indemnity bond being executed, the electricity connection would be given.



7. Considering the over all circumstances of the case and the petitioner expressing his inclination to execute indemnity bond as envisaged under Sub Section 4 of Section 27 of the Tamil Nadu Electricity Distribution Code, 2004, this Court makes the following directions:

"(i) The respondents 1 and 2 are directed to give electricity connection in response to the application made by the petitioner in this regard on the petitioner executing the indemnity bond as envisaged in Sub Section 4 of Section 27 of the Tamil Nadu Electricity Distribution Code, 2004;

(ii) The petitioner is directed to execute the bond within a period of one week from the date of receipt of a copy of this order;

(iii) The respondents 1 and 2 are directed to give electricity connection in terms of the application filed by the petitioner within a period of two weeks thereafter;

(iv) While disposing of the writ petition, it is made clear that no party shall claim any additional right in view of the electricity connection being directed to be given to the petitioner in this proceedings."

8. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-I)

+ 1 CC TO Mr.M.THIRUNAVUKKARASU, ADVOCATE IN SR No. 82058
+ 1 CC TO Mr.G.KASINATHA DURAI, ADVOCATE IN SR No. 82214
+ 1 CC TO Mr.S.SIVAPRAKASH, ADVOCATE IN SR No. 82280

SSL
TE/SKN/SAR-1 : 18/09/2018 : 3P/4C

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