



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

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CORAM :

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P. (MD) No.22518 of 2018

Sudalai

..... Petitioner

Vs.

1.The Junior Engineer,
Urban/Distribution,
O/o. Assistant Executive Engineer,
Distribution, TANGEDCO,
Sub Station Campus,
Palaya Pettai,
Tirunelveli - 627 008.

2.Kala

..... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records relating to the proceedings of the Junior Engineer, Urban/Distribution, TNEB, Palayapettai, Tirunelveli, the first respondent herein made in Lr.No.JE/D/U/PPT/CA/F.Court case/D.No.207/18 dated 03.10.2018 and quash the same consequently directing the first respondent to provide EB service connection to the petitioner's house in T.S.No.826 situated at 113A/1, Puttarathiaman Koil Street, Tirunelveli Town, Tirunelveli through the public pathway in T.S.No.822 within a short date that may be fixed by this Court.

For Petitioner : Mr.K.Marimuthu

For R1 : Mr.G.Kasinathadurai
Standing Counsel

O R D E R

The petitioner, namely, Mr.Sudalai, has filed this Writ Petition for issuance of Writ of Certiorarified Mandamus to quash the proceedings of the first respondent herein dated 03.10.2018 and for consequential direction to the first respondent to provide electricity service connection to the petitioner's house in T.S.No.826 situated at 113A/1, Puttarathiaman Koil Street,



Tirunelveli Town, Tirunelveli through the public pathway in T.S.No.822 within a short date that may be fixed by this Court.

2. The case of the petitioner is that he is a senior citizen, who is having married children and unmarried children. The petitioner has purchased a vacant site on 27.05.1987 and had constructed a house in the said land in T.S.No.826 after obtaining permission from the Town Planning authorities in the year 2012. He sought for Electricity service connection before the Electricity Board and they found that there is no other way to lay the electricity service connection except through public pathway. Since there was an objection by the second respondent, the first respondent refused to give the connection. The petitioner was forced to file a civil suit in O.S.No.263 of 2012 before the Principal District Munsif Court, Tirunelveli for permanent injunction against the first respondent not to disturb the petitioner's electricity service connection and water supply connection through public pathway situated at T.S.No.822. The said suit came to an end after five years of long battle and the Principal District Munsif granted the prayer as prayed for in the petitioner's plaint on 01.02.2017.

3. In spite of the said judgment being passed against the respondents, Tamil Nadu Electricity Board, Palayapettai, Tirunelveli has not given any connection and the petitioner was forced to file a writ petition in W.P.(MD) No.9363 of 2017 before this Court and this Court has passed an order directing the Electricity Board officials to consider the petitioner's application on merits and pass orders in accordance with law. Even thereafter, representation of the petitioner dated 24.09.2018 was not considered in favour of the petitioner. The first respondent has passed the impugned order stating that there is an appeal filed by the second respondent in A.S.No.25 of 2017 and the same is pending before the Principal Sub Court, Tirunelveli, and hence service connection to the petitioner's premises through common pathway will not be given.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the first respondent. This Court has perused the materials available on record.

5. This Hon'ble Court in **A.Muthusamy and 6 others Vs. The Assistant Engineer, Tamil Nadu, Electricity Board, K.T.C. Nagar, V.M.Chathiram, Tiruenelveli** reported in **2009(4) CTC 606** has held that the respondent Board can consider the application of the petitioner for electricity supply and grant the same after



obtaining indemnity bond and other fees. The Electricity Board can grant the said service connection as per Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code, 2004, which reads as follows:

"An intending consumer who is not the owner of the premises he occupies 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 the indemnity bond in Form 6 of the Annexure III of 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".

As per Clause 27(2)(12) of the Tamil Nadu Electricity Distribution Code, supply shall be given even in poramboke land on production of necessary documents as per the directive from the Government from time to time.

6. In view of the above judgment, this Court is of the view that when the petitioner, being the owner of the said premises, is legally entitled to get electricity connection. The petitioner has constructed a house after obtaining necessary permission from the concerned authorities. The first respondent has rejected the claim stating that there is pending dispute and when the suit had ended in favour of the petitioner, the first respondent has gone on appeal. As per the contention of the learned counsel for the petitioner, the said appeal was filed due to personal vendetta and since the other people got the electricity service connection through this common pathway, the petitioner cannot be prohibited from getting the electricity connection. It could be seen that the civil suit filed by the petitioner has been decided in favour of the petitioner as the disputed pathway is common pathway and it is the only way to reach the house of the petitioner. The second respondent has also laid the water line and electricity cables through the same common pathway. When that being the case, the petitioner's claim that he is entitled to use the same cannot be ignored. Hence, this Court directs the first respondent to provide EB service connection to the petitioner's house in T.S.No.826 situated at 113A/1, Puttarathiaman Koil Street, Tirunelveli Town, Tirunelveli through the public pathway in T.S.No.822 after obtaining necessary indemnity bond and other procedures stipulated in the Code within a period of one month from the date of receipt of a copy of this order.



7. In the result, this Writ Petition is allowed. No costs.

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Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar(CS-I)

To

The Junior Engineer,
Urban/Distribution,
O/o. Assistant Executive Engineer,
Distribution, TANGEDCO,
Sub Station Campus,
Palaya Pettai,
Tirunelveli - 627 008.

+1cc to M/s.K.Abiya, Advocate, Sr.No.94547.

W.P. (MD) No.22518 of 2018
08.11.2018

cm

RAM-KK/RP/SAR 1/05.12.2018/4P/3C