



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. (MD) No.9395 of 2014

Urudhamalai

... Petitioner

-Vs-

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Virudhunagar,
Virudhunagar District.
2. The Assistant Executive Engineer (Distribution),
Tamil Nadu Electricity Board,
Thulukkapatty,
Virudhunagar District.
- 3.Mallaiya Chettiar
- 4.Selvaraj
- 5.Rajasekar
- 6.Veeraiah Chettiar
- 7.Veerarajan
(R3 to R7 impleaded as per
order dated 05.08.2014 in M.P. (MD).No.1 of 2014)
- 8.Sangaravel
- 9.Murugesan, S/o.Karupaiya
- 10.Murugesan, S/o.Malliyachettiar
- 11.P.Kamatchi
(R8 to R11 impleaded as per
order dated 11.09.2014
in M.P. (MD).No.2 of 2014)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, call for the records pertaining the impugned order in Ka.No.U.Se.Po./Pa/Thu.Patti/Ko.Pudur/2014 A.No.115 dated 23.05.2014 passed by the 2nd respondent and quash the same and consequently direct the 2nd respondent to give Electricity connection for the petitioner's shop situated in Survey No.953/1 A at Sankaralingapuram Village, Virudhunagar District.



For Petitioner : Mr.S.Balamurugan
For Respondents 1 & 2 : Mr.G.Kasinatha Durai
For Respondents 5, 8 to 11 : M/s.D.Farjana Ghoushia
For Respondents 3, 4, 6, 7 : No appearance

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ORDER

The writ petition has been filed challenging the order passed by the second respondent rejecting the petitioner's application to give Electricity connection to the petitioner's property.

2.According to the petitioner, he is the owner of the property in Survey No.953/1A in Sankaralingapuram, Viruthunagar District, and he has purchased the property from one Ramaiah Chettiyar in the year 2003, and thereafter, he is in possession and enjoyment of the property. Earlier the third respondent herein filed a suit against the petitioner in O.S.No.207 of 2004 on the file of the learned District Munsif, Virudhunagar, for declaration and permanent injunction. The suit was dismissed holding that the suit property belongs to the petitioner. Subsequently, an appeal in A.S.No.44 of 2010, on the file of the Sub Court, Virudhunagar, was filed by the third respondent, that appeal was also dismissed. Challenging the judgment and decree a second appeal is pending before this Court. In the above circumstances, when the petitioner submitted an application seeking electricity service connection, by the impugned order dated 23.05.2014, the second respondent had rejected the said application on the ground that, a second appeal No.687 of 2012 is pending before this Court. Challenging the said order, the petitioner is before this Court, with this writ petition.

3.The learned counsel for the petitioner contended that the suit filed by the third respondent in O.S.No.207 of 2004 was dismissed holding that the suit property belongs to the petitioner and the appeal filed by the plaintiff/third respondent was also dismissed, confirming the judgment of the trial Court, now a second appeal is pending on the file of this Court against the concurrent judgment, however, the pendency of second appeal cannot be bar for considering the petitioner's request for grant of service connection, hence the impugned order is liable to be set aside.

4.Now, the learned counsel appearing for the respondents 5 and 8 to 11 contended that the suit property belongs to one Sankaralingapuram Devankar Makasana Sabha and they have filed a suit in O.S.No.182 of 2012 as filed before the District Munsif Court, Virudhunagar, relating to the property for which the service connection is sought for, and the suit is pending, since the rights of the parties are yet to be decided by the civil Courts, service connection cannot be granted to the petitioner.



5. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1, 2, 5 and 8 to 11 and considered the rival submissions made on either side.

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6. Admittedly, as on today, the property stands in the name of the petitioner, a patta is also granted in his favour, the suit filed by the third respondent seeking declaration that the suit property belongs to third respondent is also dismissed, and a second appeal is pending before this Court without any interim order. In the above circumstances, the respondent cannot prevent the petitioner's to have a service connection. In the event of the second appeal pending before this court, and the suit in O.S.No.182 of 2012 pending before the District Munsif Court, Viruthunagar in which the respondents 5 and 8 to 11 are parties, and decided in favour of the private respondents, it is always open to them the claim title over the property, and approach the official respondent for an appropriate remedy. As on today, the respondents cannot prevent the petitioner from getting a service connection in his favour. Therefore the impugned order in Ka.No.U.Se.Po/Pa/Thu.Patti/Ko.Pudur/2014 A.No.115 dated 23.05.2014 passed by the second respondent is unsustainable in law and it is accordingly set aside and the second respondent is directed to give service connection to the petitioner's shop situated in Survey NO.953/1A at Sankaralingapuram Village, Virudhunagar District. This writ petition is allowed. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Virudhunagar,
Virudhunagar District.
2. The Assistant Executive Engineer (Distribution),
Tamil Nadu Electricity Board,
Thulukkapatty, Virudhunagar District.

+ 1 CC TO Mr.S.BALAMURUGAN, ADVOCATE IN SR No. 48807
+ 1 CC TO Mr.G.MARIAPPAN, ADVOCATE IN SR No. 48764.

VSG

TE/SKN-RSK/SAR-4 : 04/04/2018 : 3P/5C

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