

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

WRIT PETITION NO.10072 OF 2012

P.Gopal Reddy

... Petitioner

Vs

1. The Divisional Engineer,
Tamil Nadu Electricity Board,
Gandhi Nagar, Katpadi,
Vellore District.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Gandhi Nagar, Katpadi, Vellore.
3. The Junior Engineer,
Tamil Nadu Electricity Board,
Senji Village and Post,
(via) Latheri, Katpadi, Vellore.
4. Malar

.... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to disconnect the electricity service connection which was given in the name of the 4th respondent for the thatched house in Service Connection No.811 for the property bearing Survey No.668/10 at Senji Village, Katpadi Taluk.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.M.Varun Kumar,
1 to 3 Standing Counsel
No Appearance for R4

O R D E R

Mr.P.Gopal Reddy, the petitioner herein claiming to be the decree holder in O.S.No.749/1992 filed for recovery of money on the file of the learned Additional District Munsif, Vellore and

subsequently, became the auction purchaser and thereupon issued a Sale Certificate dated 26.11.2004 by the learned Additional District Munsif, Vellore in E.P.No.291/2000 in G.O.S.No.749/1992 has come to this Court seeking a Writ of Mandamus, directing the respondents to disconnect the electricity service connection which was given in the name of the 4th respondent for the thatched house in Service Connection No.811 for the property bearing Survey No.668/10 at Senji Village, Katpadi Taluk.

2. Learned Counsel appearing for the petitioner would submit that the petitioner has purchased the suit property through the Sale Certificate dated 26.11.2004 by way of Court auction and the possession was handed over to him on 20.3.2007. Since then, he has been in possession and enjoyment of the same. While so, without any right or title, one Malar, W/o.Jaganathan, filed a suit in O.S.No.412/2007 before the District Munsif, Katpadi in respect of part of the property in Survey No.668/10 against the petitioner seeking permanent injunction and the same is pending for trial from 22.12.2010. The petitioner, having seen that the said Malar illegally and unauthorisedly put up Thatched house in one part of the property belonging to him, a representation has been given on 15.9.2010 followed by the representations 22.9.2010 and 15.10.2010 to the respondents 1 to 3 not to give Electricity Service Connection as they have got objection. Moreover, the petitioner is the owner of the property on the basis of the Sale Certificate dated 26.11.2004 issued by the Court.

3. The learned Counsel for the petitioner would further submit that when the 4th respondent has not having any title pertaining to the portion of the land in question, a direction be issued to cancel the service connection.

4. Learned Standing Counsel appearing for the respondents 1 to 3 would submit that the Village Administrative Officer has issued a Certificate dated 15.09.2010 stating that the petitioner is the owner of the property for 75 sq.meter in S.No.668/58 and 75 sq.meter in S.No.668/59. The Tahsildar, Katpadi has also issued a Certificate on 11.11.2010 stating that the petitioner is the owner of the property-in-question. While so, the 4th respondent has given an application to effect Service Connection to her house along with Indemnity Bond on 08.11.2010. Based on the Indemnity Bond and based on the report dated 08.11.2010, the Service Connection has been provided to the house of Malar. Moreover in O.S.No.412/2009 filed by the 4th respondent against the petitioner herein, a status quo order has been passed. In view of the said interim order, the request of the petitioner could not be considered.

5. Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 3. No one appears for the 4th respondent and no Counter Affidavit has been filed by the 4th respondent.

6. The petitioner has produced the Sale Certificate dated 26.11.2004 issued by the learned Additional District Munsif, Vellore. The petitioner is the decree holder residing at Senji Village, Katpadi Taluk and on the basis of the order declaring him as a highest bidder of the scheduled property in the court auction held on 30.08.2004, in execution of the decree, he has filed E.P.No.291/2000 in G.O.S.No.749/1992 on the file of the District Munsif Court, Katpadi. The Schedule of Property is given as under :

'Lot No.1 :
North Arcot Ambedkar District, Gudiyatham Taluk,
Katpadi Sub-District, Senji Village, House site with
foundation in S.No.668/10 (Old S.No.36/1 Acres 0.4 ½
Cents bounded on the North by the Street, on the South
by Co-operative Society in vacant site, on the East by
Gengan's house and on the West by Ponnusamy's house
site.'

The schedule of the property as per the Sale Certificate dated 26.11.2004 clearly shows that the land-in-question belongs to the petitioner and it also makes it clear from the counter affidavit filed by the respondents 1 to 3 that even the Village Administrative Officer has issued a Certificate dated 15.09.2010 in favour of the petitioner certifying him as the owner of the property in 75 sq. meter in S.No.668/58 and 75 sq. meter in S.No.668/59 and the Tahsildar, Katpadi has also issued a Certificate on 11.11.2010 stating that the petitioner is the owner of the property having an extent of 150 sq.ft. in S.No.668/58 and 668/59. Therefore, when the petitioner is the owner of the property as per the above background, merely on the basis of the indemnity bond executed by the 4th respondent, the respondents 1 to 3 cannot give any service connection, more particularly, when there was an objection given by the petitioner not to give any electricity service connection instead of the respondents 1 to 3 were given certificates. Further, the 4th respondent has not filed any counter affidavit stating that the petitioner has no right or ownership in respect of the land-in-question.

7. In view of all the above, the Junior Engineer, Tamil Nadu Electricity Board, Senji Village and Post, Latheri Via, Katpadi, Vellore is directed to disconnect the Electricity Service Connection No.811 for the property bearing Survey No.668/10 at Senji Village, Katpadi Taluk of the 4th respondent

forthwith.

8. With the above direction, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Divisional Engineer,
Tamil Nadu Electricity Board,
Gandhi Nagar, Katpadi,
Vellore District.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Gandhi Nagar, Katpadi, Vellore.
3. The Junior Engineer,
Tamil Nadu Electricity Board,
Senji Village and Post,
(via) Latheri, Katpadi, Vellore.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.83827

W.P.No.10072 of 2012

PPA(CO)
CS/29/11/2019

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