

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.10568 of 2011 and
M.P.No.1 of 2011

1. Nachimuthu Gounder
 2. Marakkal @ Marayal
 3. T.N.Deivasigamani
- Petitioners

Vs

1. The Revenue Divisional Officer,
Gobichettipalayam,
Erode District.
 2. The Tahsildar,
Gobichettipalayam,
Erode District.
 3. The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Othakuthirai,
K.Mettupalayam,
Gobichettipalayam Taluk,
Erode District.
 4. Subramaniam
 5. Lakshmi
 6. Elayammal
 7. Venkadasamy
- सत्यमेव जयते ... Respondents

(R5 to 7 were impleaded as per order
dated 5.7.2012 in M.P.No.1/2012 in
W.P.No.10568/2011)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings made in Na.Ka.No.1781/11-A3 dated 02.03.2011 on the file of the 1st respondent, quash the same and consequently, direct the 3rd respondent to grant Electricity Service Connection to the Borewell situated in the petitioner's land in R.S.No.1314/2, Gugalur A Village, Gobichettipalayam Taluk.

For Petitioner : Mr.N.Manokaran

For Respondents: Mrs.P.Rajalakshmi,
Addl. Govt. Pleader for R1 and R2

Mr.S.K.Raameshwar,
Standing Counsel for R3

Mr.T.Murugamanickam,
Senior Counsel
for M/s.Zeenath Begam for R4

Mrs.S.Kaithamalai Kumaran
for R5 to 7

O R D E R

The Writ Petition has been filed challenging the impugned Proceedings made in Na.Ka.No.1781/11-A3 dated 02.03.2011 on the file of the 1st respondent and to quash the same and for consequential direction, directing the 3rd respondent to grant Electricity Service Connection to the Bore well situated in the petitioner's land in R.S.No.1314/2, Gugalur 'A' Village, Gobichettipalayam Taluk.

2. Learned Counsel appearing for the petitioner submitted that the impugned order has been passed without giving any opportunity to the petitioner, more particularly, when the Tahsildar, Gobichettipalayam has issued the Ownership Certificate dated 28.01.2011 on the basis of his enquiry and the Village Administrative Officer Certificate dated 09.10.2010 regarding identification of the borewell in R.S.No.1314/2 corresponding to Old S.F.No.580/A1. Without considering the same, the 1st respondent ought not to have passed an order of injunction thereby directing the 3rd respondent Tamil Nadu Electricity Board from giving Electricity Service Connection to the petitioner's Borewell. The learned Counsel for the petitioner further submitted that in view of the impugned order, the petitioner is not even able to get the Service Connection, as a result, he is not able to cultivate his land. Therefore, the learned Counsel prays to set aside the same.

3. Mr.T.Murugamanickam, learned Senior Counsel appearing for the 4th respondent opposing the above prayer submitted that as per the Partition Deed dated 29.08.1986 entered into between the petitioners and Marappa Gounder, the land-in-question in which the petitioners claim to have obtained Certificate from the Tahsildar, Gobichettipalayam, cannot be claimed as their absolute property because the Partition Deed dated 29.08.1986 shows that the land-in-question is a common property.

Therefore, it has to be ascertained by the 1st respondent as to whether the land-in-question is a common property or separate property.

4. Mrs.P.Rajalakshmi, learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that firstly, the correctness of the certificate given by the 2nd respondent Tahsildar has to be considered by the Revenue Divisional Officer, Gobichettipalayam. Therefore, she seeks six weeks time to complete the enquiry by the 1st respondent Revenue Divisional Officer, Gobichettipalayam.

5. Heard Mr.S.K.Raameshwar, learned Standing Counsel for the 3rd respondent and Mr.S.Kaithamalai Kumar, learned Counsel for the respondents 5 to 7.

6. Considering the facts and circumstance of the matter, this Court is of the view that the correctness of the certificate given by the 2nd respondent Tahsildar has to be ascertained by the Revenue Divisional Officer, Gobichettipalayam. Therefore, this Court accepting the request made by the learned Additional Government Pleader appearing for the respondents 1 and 2 for grant of six weeks time, directs the Revenue Divisional Officer, Gobichettipalayam, to proceed with the enquiry and complete the same within a period of six weeks from the date of receipt of a copy of this Order. Needless to mention that before proceeding with the enquiry, the Revenue Divisional Officer, Gobichettipalayam shall serve notice to all the parties concerned.

7. With this observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

tsi

To

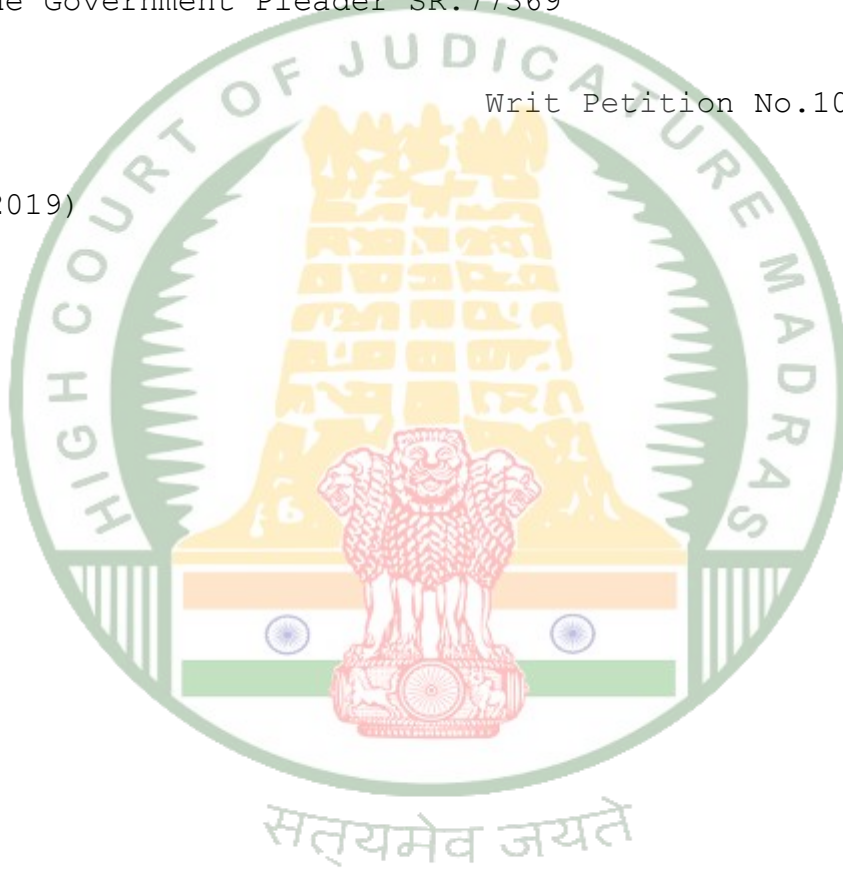
1. The Revenue Divisional Officer,
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Operation and Maintenance,
Tamil Nadu Electricity Board,
Othakuthirai,
K.Mettupalayam,
Gobichettipalayam Taluk,
Erode District.

+1cc to Mr.N.Manokaran, Advocate SR.77023
+1cc to M/s.Zeenath Begam, Advocate SR.76906
+1cc to Mrs.S.Kaithamalai Kumaran, Advocate SR.76826
+1cc to the Government Pleader SR.77369

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RR(CO)
CB(23/10/2019)



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