

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.792 of 2019 and
W.M.P. Nos.869 & 9203 of 2019

V.Srinivasan

.. Petitioner

-vs-

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Chennai South, SS Complex,
Anna Main Road, KK Nagar,
Chennai 600 078.

2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
IIT Campus, Chinnamalai,
Kotturpuram, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the Assistant Engineer, Tamil Nadu Electricity Board, Kotturpuram, Chennai, the second respondent herein to effect a new Electricity Service Connection to the schedule mentioned property in the name of the petitioner or transfer the existing electricity service connection to the name of the petitioner.

For Petitioner:: Mr.J.Senthil Kumar

For Respondents:: Mr.S.K.Raameshuwar,
Standing Counsel

ORDER

Mr.V.Srinivasan, the petitioner herein, having become successful bidder in a Public Auction conducted by M/s.Kotak Mahindra Bank, has come to this Court seeking a direction to the Assistant Engineer, Tamil Nadu Electricity Board, Kotturpuram, Chennai, the second respondent herein to effect a new Electricity Service Connection to the schedule mentioned property in his name.

2.Learned counsel appearing for the petitioner would submit that the petitioner has become lawful owner of the schedule property, since he has purchased the same by way of public auction conducted by M/s.Kotak Mahindra Bank under SARFAESI Act 2002 in the year 2015 for a sale consideration of Rs.1,30,50,000/-. When the property in question was brought in a public auction, the petitioner took part as a bidder and declared as a highest bidder. After payment of the entire sale consideration, all the original documents were handed over by the Bank including the sale document No.1688/2001 on the file of the Sub Registrar Office, Adyar to the petitioner. Since the property was originally mortgaged to City Financial Consumer Finance India Limited by one M.Krishnamurthy and his wife Nazreen Krishnamurthy, in terms of the decision taken by the City Financial Consumer Finance India Limited, the schedule mentioned property was assigned to M/s.Kotak Mahindra Bank for the debts due from the said M.Krishnamurthy and Nazreen Krishnamurthy under a registered Assignment Agreement dated 31.10.2012 on the file of the Sub Registrar Office at Sanganer, Jaipur. After payment of entire sale consideration, since the petitioner has been declared as the highest bidder, he was issued with the sale certificate dated 15.06.2018. Therefore, the petitioner has explained before the second respondent that he has become owner of the property on the basis of the property purchased in public auction conducted under SARFAESI Act, 2002 from Kotak Mahindra Bank and requested the second respondent not to disconnect the electricity connection in the schedule property. But, the second respondent refused to accept the request letter dated 03.01.2019 and rejected the same stating that the petitioner does not have a sale deed registered in his name. Hence, the petitioner also sent a legal notice by registered post on 03.01.2019. When the sale certificate dated 15.06.2018 issued in favour of the petitioner clearly shows that the petitioner has purchased the schedule property, the second respondent, on payment of usual charges, ought to have continued the electricity supply to the schedule mentioned property. Therefore, the learned counsel appearing for the petitioner prays for a direction to that effect.

3.Learned Standing Counsel appearing for the respondents, reiterating the averments made in the counter affidavit filed by the Assistant Executive Engineer, Chennai, the second respondent herein, would submit that the petitioner claiming to have bought the property from Kotak Mahindra Bank, has rented out the property to one Mr.Gopinath for running a canteen and an outdoor catering unit. Since the petitioner has been using the place for commercial purpose and he has been tapping the electricity from his domestic connection, which amounts to theft, the said Krishnamurthy, the previous owner had requested the second respondent to disconnect the electricity service connection and

also to take necessary legal action against the petitioner. Thereafter, on receipt of the complaint from Krishnamurthy, the second respondent inspected the petitioner's premises, where it was found that the petitioner has been using the property as Canteen. Therefore, the service connection used by the petitioner comes under the Commercial Tariff, but, the service connection was originally obtained for domestic purpose. Hence, the second respondent is prepared to give a new connection with a change of tariff, if the petitioner is ready and willing to give proper application with valid registered documents.

4.It is at this stage, learned counsel appearing for the petitioner fairly agreed to the said suggestion.

5.Learned counsel appearing for the impleading party submitted that one Naseer Khaleeli has purchased the property from Krishnamurthy and that there is no sale certificate issued in favour of Krishnamurthy. That being the case, it is not known how the impleading party has purchased the property in question from Krishnamurthy. Even if he purchased the same, it cannot be a valid sale. Accordingly, W.M.P. No.9203 of 2019 is dismissed.

6.Therefore, this Court hereby directs the petitioner to produce the sale certificate issued in his favour along with other relevant documents and No Objection Certificate from the previous occupier and to execute an indemnity bond and undertaking as required under Clause 27(4) of the Tamil Nadu Electricity Distribution Code to the respondents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to provide electricity service connection to the petitioner within a period of two weeks thereafter. The second respondent is entitled to collect the arrears of electricity charges left by the previous occupier from the petitioner.

7.With the above direction, the Writ Petition is disposed of. Consequently, connected W.M.P. is closed. No costs.

8.The impleading party is directed to pay costs of Rs.5,000/- to the writ petitioner within a period of one week from the date of receipt of a copy of this order, for wasting the valuable Court's time.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Chennai South, SS Complex,
Anna Main Road, KK Nagar,
Chennai 600 078.

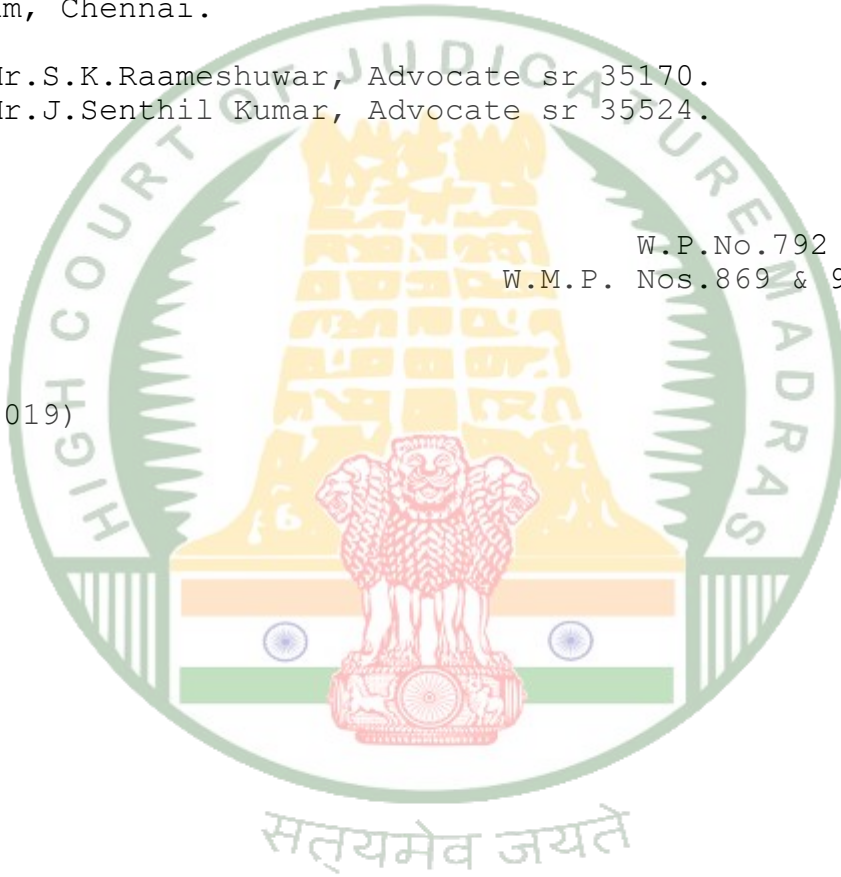
2.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
IIT Campus, Chinnamalai,
Kotturpuram, Chennai.

+1 CC to Mr.S.K.Raameshuwar, Advocate sr 35170.

+1 CC to Mr.J.Senthil Kumar, Advocate sr 35524.

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VGII (CO)
SP(02/05/2019)



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