

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.16149 of 2012

Irusagounder

.. Petitioner

-vs-

1.The Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Omalur, Salem District.

2.The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Pappampadi, Omalur Taluk,
Salem District.

3.Murugesan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents 1 and 2 to grant agricultural electricity service connection to the petitioner's well in S.F. No.204/2B, Vellapuram Village, Edapadi Taluk, Salem District by accepting the patta, chitta and adangal stood in the name of the petitioner's father Periyannagounder after getting the indemnity bond to grant service connection in pursuance to the proceedings made in Letter No.EE/O&M/Omalur/Va.Oo/Kattu-Agricultural/No.168-11/2010 dated 09.08.2010 on the file of the first respondent herein by considering the petitioner's representation dated 02.11.2011.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.S.K.Raameshuwar,
Standing Counsel for R1 and R2

Mr.G.Rajan for R3

ORDER

The writ petition has been filed seeking a direction to respondents 1 and 2 to grant agricultural electricity service connection to the petitioner's well in S.F. No.204/2B, Vellapuram Village, Edapadi Taluk, Salem District by accepting the patta, chitta and adangal stood in the name of his father Periyannagounder after getting the indemnity bond to grant service connection in pursuance to the proceedings made in Letter No.EE/O&M/Omalur/Va.Oo/Kattu-Agricultural/No.168-11/2010 dated 09.08.2010 on the file of the first respondent herein by considering his representation dated 02.11.2011.

2.Learned counsel appearing for the petitioner would submit that the agricultural lands measuring to an extent of 1.25.0 hectares comprised in S.No.204/2B, Vellalapuram, Edapadi Taluk are the petitioner's ancestral properties and the petitioner was in joint possession and enjoyment of the properties along with his father late Periyannan and two brothers. After the death of his father and one of his brother Palanigounder, the petitioner has been in possession and enjoyment of the properties along with his younger brother Kandasamy and his late younger brother's son Madhaiyan. In order to get electricity service connection to his well in S.No.204/2B, the petitioner had applied for 5 HP electricity service connection on 26.04.1991 under Registration No.3 of 1991 and the seniority has reached only in the year 2010.

3.Learned counsel appearing for the petitioner would further submit that in order to provide agricultural service connection to the petitioner's well, the first respondent herein by his proceedings dated 09.08.2010 informed the petitioner to get ready with the motor pump sets and other accessories and has directed to produce the ownership certificate issued by the Village Administrative Officer, copy of the field measurement book by marking the well, kist receipts, chitta and adangal extract and copy of the patta or title deeds on or before 18.11.2010. Accordingly, the petitioner produced all the above documents to the first respondent along with his letter of readiness to purchase the motor pump set and other accessories. While so, the third respondent who is the petitioner's sister's son has raised objection to grant service connection to the petitioner's well. Due to the same, the petitioner and two others have filed a suit in O.S. No.389 of 2009 for declaration and permanent injunction against the third respondent before the District Munsif Court, Sankari. Since the first respondent has not taken any step to provide electricity service connection to the petitioner's well without any valid reason, the petitioner has filed W.P. No.5800 of 2011 before this Court seeking a direction to respondents 1 and 2 to grant agricultural service connection to his well without insisting for the consent of the

third respondent and this Court, by order dated 10.03.2011, disposed of the above writ petition directing the respondents 1 and 2 to proceed the matter in accordance with law.

4.Learned counsel appearing for the petitioner would further submit that since the third respondent, who was in permissive occupation, has managed to get a sale deed from defendants 2 to 5 in the suit, he sought for declaration to hold that the sale deed is null and void. As the suit is pending for trial, the petitioner, who is in peaceful possession and enjoyment of the land in question, cannot be deprived of in getting electricity service connection to his well. Therefore, a direction be issued to respondents 1 and 2 to provide electricity service connection.

5.At this stage, learned Standing Counsel appearing for respondents 1 and 2 urged this Court to dismiss the writ petition on the ground that the same is not maintainable for the reason that earlier this Court by order dated 10.03.2011 has directed respondents 1 and 2 to proceed with the enquiry in the manner known to law and as directed by this Court, when the enquiry was held, the petitioner was not able to produce the relevant documents.

6.Agreeing to the submission made by the learned Standing Counsel appearing for respondents 1 and 2, learned counsel appearing for the petitioner would submit that now the petitioner shall produce the relevant documents before the enquiry to be conducted by the second respondent.

7.Therefore, this Court hereby directs the Assistant Engineer, Tamil Nadu Electricity Board, the second respondent herein to permit the petitioner to produce the relevant documents within a period of two weeks from the date of receipt of a copy of this order. On production of such documents which are in the name of the petitioner's father, the second respondent shall consider the same and grant the electricity service connection. Needless to say that providing electricity service connection to the petitioner shall be subject to the result of the suit.

8.With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

vga

To

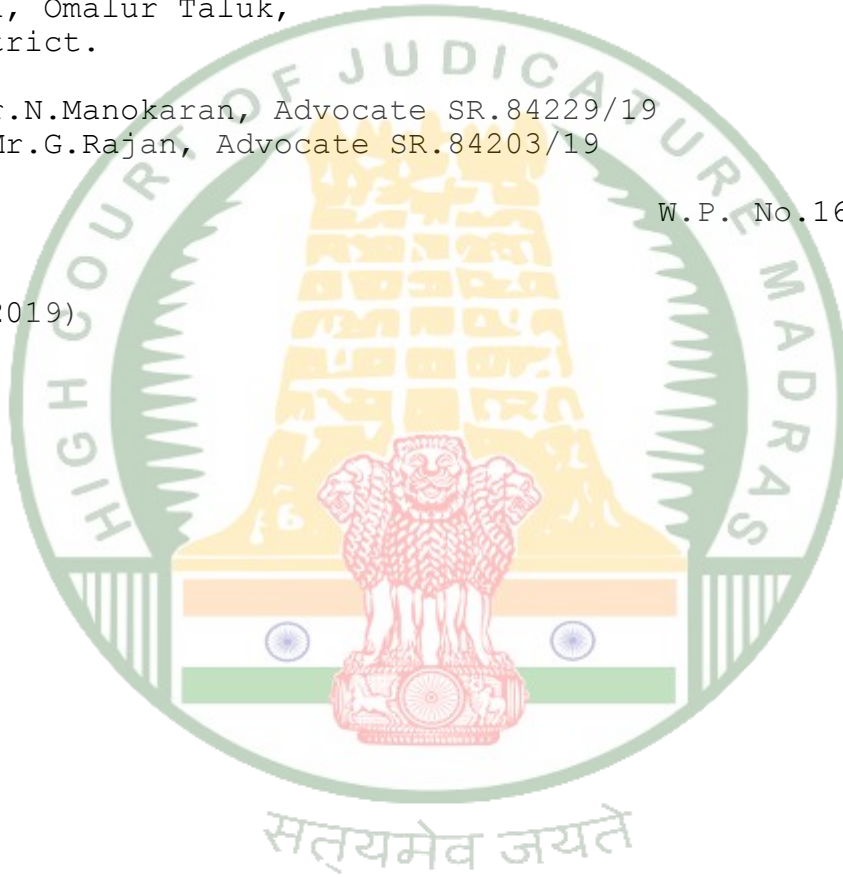
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+1cc to Mr.N.Manokaran, Advocate SR.84229/19
+1cc to Mr.G.Rajan, Advocate SR.84203/19

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VGI (CO)
CB(15/11/2019)



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