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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22845 & 22875 of 2004

and

WMP.Nos.27619, 27620 and 27655 of 2004

Mr.Gaurav Gupta

...Petitioner in W.P.No.22845 of 2004

Mr.Niraj Gupta

...Petitioner in W.P.No.22875 of 2004

vs

1. The Assistant Engineer

T.Nagar (East)

Chennai Electricity Distribution Division/Unit

T.Nagar, Chennai-17

2. The Superintending Engineer

Chennai Electricity Distn.Circle/Centre,

Valluvarkottam, Chennai.

3.Mrs.A.Sundari,

W/O.Late Anthoni,

16, Gangaianman Colony,

Vadapalani, Chennai-2

...Respondents 1 to 3

in W.P.No.22845 of 2004

4. Tamil Nadu Electricity Board

rep.by its Chairman

Mount Road, Chennai.

5. The Executive Engineer,

CEDC/Central/O&M/Mambalam,

No.41, Thanikachalam

Road, T.Nagar, Chennai 600 017.

6. The Assistant Executive Engineer,

CEDC/Central/O&M/T.Nagar East,

No.41, Thanikachalam

Road, T.Nagar, Chennai 600 017.

...Respondents 4 to 6 in

W.P.No.22875 of 2004



Prayer in W.P.No.22845 of 2004: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to Letter No.A.E.T.Nagar.East/A.No.300/04 dated 06.08.2004 of the first respondent and quash the same as illegal, arbitrary, without jurisdiction of law.

Prayer in W.P.No.22875 of 2004: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents or any of their officers, men agents or servants from interrupting electricity supply to connections 235-40-197; 235-40-196 and 235-40-213 and 235-40-198 at ground floor of Door No.24, Dr.Nair Road, T.Nagar, Chennai 600 017 except by due process of law and thus render justice.

For Petitioner	: Mr.N.L.Rajah(WP No.22875 of 2004) Mr.K.Venkatasubramanian (W.P.No.22845 of 2004)
For Respondents in all W.Ps	: Mr.P.R.Dhilip Kumar

O R D E R

The prayer in W.P.No.22845 of 2004 for issuance of Writ of Certiorari, to call for the records pertaining to Letter No.A.E.T.Nagar.East/A.No.300/04 dated 06.08.2004 of the first respondent and quash the same as illegal, arbitrary , without jurisdiction of law.

2. The prayer in W.P.No.22875 of 2004 for issuance of Writ of Mandamus, forbearing the respondents or any of their officers, men, agents or servants from interrupting electricity supply to connections 235-40-213, 235-40-197 and 235-40-196 & 235-40-198 at ground floor of Door No.24, Dr.Nair Road, T.Nagar, Chennai-600 017 except by due process of law.

3. The case of the petitioners is that their property situated at Door No.24, Dr.Nair Road, T.Nagar, Chennai, was originally owned by the Corporation of Chennai and the said property was sold to one Mr.C.Veeraraghavulu Chetty by sale deed dated 18.10.1935 and registered as Doc.No.2336/1935, at the office of the Sub-Registrar, Mylapore. Mr.C.Veeraraghavalu Chetty, during his life time, executed a will on 25.10.1962 and bequeathed the said property in favour of Mr.C.Nambeerumal Chetty and Rajabhadar Chetty to be enjoyed by them absolutely and the said will was duly probated in O.P.No.206 of 1954. Mr.C.Nambeerumal Chetty and Mr.Rajabhadar Chetty sold the said



property in favor of S.Rattan Bai by sale deed dated 29.09.1965 and the same was registered as Doc.No.2936 of 1965, at the office of the Sub-Registrar, Chennai and she sold the said property to Mrs.V.Lakshmi and Mrs.S.Meerabai on 02.09.1968 and registered as Doc.No.2258 of 1968, at the office of the Sub Registrar, T.Nagar. Thereafter, Mrs.V.Lakshmi and Mrs.S.Meerabai have entered into an agreement for development of the property with Mr.C.Amarnath on 28.07.1993 and subsequently, Mr.C.Amarnath in turn entered into an agreement with Mr.Naresh J.Mehta, partner of M/s.Anil Suresh Constructions on 31.03.1994 and handed over the possession of the property to them, by letter dated 13.02.1995. Mrs.V.Lakshmi and Mrs.S.Meerabai have executed two general power attorneys in favour of Mr.Naresh J.Mehta on 18.04.1994 and 13.02.1995, respectively, giving power to deal with the property absolutely including the power to alienate the property. Mr.Naresh J Mehta, has completed construction of the apartments in 1997, in the name of Majestic Brindavan and there are 12 flats in the apartments apart from one super market. Mr.Naresh J.Mehta has executed sale deeds in favour of several purchasers of the said flats and the petitioners, being one of the partner's son, purchased an extent of 900 sq.ft. of undivided share of land from the total extent of 6 grounds on 26.07.1996 and the same was registered as Doc.No.1474 of 1996, Book-I, Volume-1398, Pages-233 to 237, at the office of the Sub-Registrar, T.Nagar and the developer executed a construction agreement for the constructed area of 1800 sq.ft with the petitioners. The petitioner is in possession and enjoyment of the property absolutely and his name was mutated in the official records such as property tax, EB card.

4. The petitioners mortgaged the property with LIC Housing Finance Limited and received a loan of Rs.7,00,000 and therefore, he had deposited the original sale deed with the financial institution. While so, one Mrs.Sundari, the third respondent herein, claiming to be the owner of the petitioner's property, by virtue of the probate order obtained by her on O.P.No.368 of 1997, on the file of the High Court, Madras, came with goondas on 05.09.1999, with lethal weapons and threatened the petitioners and other occupiers of the residential apartments. The petitioners along with other occupiers gave a complaint to the police station. The petitioners further stated that there were several cases filed by by a benami person of Mrs.Sundari as well as the defendant in City Civil Courts, Small Causes Courts and also in High Court, in C.S.No.243 of 1997 .

5. Taking advantage of the loopholes, Mrs.Sundari armed with the order of probate, started to give problems to the petitioners and other occupiers of the building, sending copies with a covering letter to various authorities claiming that she is the owner of the property and she gave a complaint to the



Assistant Executive Engineer, CEDC/Central/O & M/T.Nagar, No.41, Chennai-17. The Assistant Executive Engineer sent a notice on 24.11.1999 calling for explanation within 15 days about the property particulars or otherwise they were threatened that service connection will be disconnected. The notice was received by the petitioners on 15.12.1999 and the petitioners gave a reply on 17.12.1999 giving full details about the property and requested the Electricity Board department to refer the papers for legal opinion. The officials of the Electricity Board ignored the letter and they have visited the property for disconnecting the power and one of the owner of the residential apartments has moved a lunch motion by filing W.P.No.145 of 2000, challenging the action of the Electricity Board and this Court passed an order that without passing any order on the reply to the notice, they should not cut off the electricity connections to the suit property and the injunction granted by this Court has not been vacated and the same is pending even now.

6. In view of the continuous threat given by Mrs.Sundari, giving false complaints to the authorities on the basis of the probate order, the petitioners have filed C.S.No.12 of 2000 before this Court for declaration of title that the petitioners are the owner of the said property, having constructed area of 1800 sq.ft. together with 900 sq.ft. of undivided share of land of the building. The said suit was decreed as prayed for on 10.07.2003. Even though the petitioners have obtained a declaration decree against the third respondent for his flat, still the said decree shall bind upon her even for the remaining undivided share of land.

7. In the mean time, the first respondent without issuing any show cause notice or giving any time, served a copy of the order in the premises in letter No.A.E.T.Nagar East/A.No.300/04 dated 06.08.2004, in which it has been stated that " as per the order of the terms and conditions of supply of electricity of Tamil Nadu Electricity Board, the service connection No.235-40/196 will be disconnected within 24 hours" and the original has not been served by the petitioners. Therefore, challenging the impugned order, the present writ petition is filed.

8. The learned Senior counsel for the petitioners submitted that the first respondent without issuing any show cause notice or giving any time to the petitioners, passed the impugned order, which has also not been served on the petitioners. The impugned order was affecting the petitioner's interest as it relates to the service connection of the premises. Unless the impugned order is quashed, the petitioner would be subjected to mental agony and it will affect the day to day affairs of the family. Nowadays, in the technology world life, without electricity the usual work of an individual may be greatly



affected. Absence of electricity will affect an individuals life back to stonage. Therefore, the learned counsel prays that the impugned order may be quashed.

9. The learned counsel for the electricity board produced a copy of the letter dated 12.06.2019 wherein it has been stated that the electricity board has no intention of disconnecting the existing service connection. The learned counsel also confirmed the fact that the petitioner is regularly paying the current bill.

10. Considering the submission made by the learned counsel for the electricity board that the board has no intention of disconnecting the service connection, this Court is of an opinion that no further adjudication is necessary in this writ petition. Therefore, the writ petition is closed. This Court is not expressing any opinion on the merits of the contention raised by the petitioner in the affidavit filed in support of the petition. The petitioner has to work out his remedies before the appropriate forum.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Engineer
T.Nagar(East)
Chennai Electricity Distribution Division/Unit
T.Nagar, Chennai-17.
2. The Superintending Engineer
Chennai Electricity Distn.Circle/Centre,
Valluvarkottam, Chennai.
3. The Chairman
Tamil Nadu Electricity Board
Mount Road, Chennai.



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+1cc to M/s.P.R.Dhilpkumar, Advocate Sr.47945

W.P.Nos.22845 & 22875 of 2004

cp[col]
srg 01/08/2019