

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.07.2019

Coram

The Honourable Mr. Justice M.DHANDAPANI

W.P.No.25943 of 2009
and M.P.No.1 of 2009

Tmt.Lakshmi

... Petitioner

vs.

1. The Executive Engineer,
Distribution South,
Tamil Nadu Electricity Board,
17, Gandhiji Road,
Erode - 1

2. The Assistant Engineer,
Operation and Maintenance
Tamil Nadu Electricity Board
Ganapathypalayam,
Erode Taluk - 638 153.

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents made in Ka.No.EE.Dis.E.Tho.Nu.U.1/Ko Original Application No./Na-491/Tha.Pa/72-1/2008-09 dated 28.01.2009 on the file of the 1st respondent and consequential order passed by the 2nd respondent in his proceedings Ka.No.A.E.E/O and E/Ka.Pa.Ka.Pa.Ko.Thani/No.034/09 dated 27.04.2009 to quash the same and directing the respondents to grant the electricity connection to the petitioner in Survey No.133/9 situated in Punjaikilambi Village, Kodumudi Registration, Erode Taluk.

For Petitioner : Mr.S. Thangavel

For respondents : Mr.S.K. Rameshwar
Standing Counsel

ORDER

The petitioner filed the present writ petition praying to issue a Writ of Writ of Certiorarified Mandamus to call for the records of the respondents made in Ka.No.EE.Dis.E.Tho.Nu.U.1/Ko Original Application No./Na-491/Tha.Pa/72-1/2008-09 dated

28.01.2009 on the file of the 1st respondent and consequential order passed by the 2nd respondent in his proceedings Ka.No.A.E.E/O and E/Ka.Pa.Ka.Pa.Ko. Thani/No.034/09 dated 27.04.2009 to quash the same and directing the respondents to grant the electricity connection to the petitioner in Survey No.133/9 situated in Punjaikilambi Village, Kodumudi Registration, Erode Taluk.

2. The case of the petitioner is that the petitioner's mother was owning lands in Survey Nos.134/2 and 133/9 and the petitioner's mother had four daughters, including the petitioner and the petitioner's mother made an application for electricity service connection in the year 1988-89 for a 'Well' situated in S.No.134/2.

3. Thereafter, the petitioner's mother died on 26.02.1993. Subsequently, one of the sisters of the petitioner died on 1998 and thereafter, there was a partition on 20.02.2006 between one son and three sisters. In the partition, the petitioner was allotted lands in S.No.133/9 and S.No.134/2 was allotted to one of the petitioner's sister, viz., Ms.Kaliammal, after obtaining 'No objection' from all the respondents.

4. The petitioner made an application for change of Survey Number, which was allotted to her in the partition, however, the said application was rejected. Challenging the same, the present Writ Petition is filed.

5. The learned counsel for the petitioner submitted that th petitioner's mother made an application for electricity service connection for 'Well' situated in S.No.134/2 in the year 1988-89, much prior to the partition. The application was taken for consideration only in the year 2009. Even much prior to that, the petitioner made an application for change of Survey Number, which was allotted to her in the partition and the petitioner's sister Ms.Kaliammal has also given consent for change of electricity connection in Survey No.133/9. However, without considering the application submitted by the petitioner's sister, the respondents rejected the request of the petitioner. In support of her contention, the learned counsel relied on the decision in the case of P. Periyasamy vs The Tamil Nadu Electricity Board and others reported in (2010) (2) CTC 897, wherein this Court has held as follows:-

"3. The petitioner has also stated that an Application had been made to the fourth respondent, on 28.12.2006 for electricity service connection to the well situated in Survey No.141/2, Madhavacherry Villag and Post,

Kallakurichi Taluk, by paying the necessary application fee of Rs.500-, in application registration No.566. Subsequently, the petitioner had submitted an application to the sixth respondent requesting him to give the electricity service connection to Survey No.141/6B6, instead of to Survey No.141/2, Madhavacherry Village and Post, Kallakurichi Taluk, in view of the registered partition in the petitioner's family. However, by proceedings, dated, 25.11.2009, the second respondent had rejected the said request. In such circumstances, the petitioner had preferred the present Writ Petition before this Court, under Article 226 of Constitution of India."

6. Learned counsel for the respondents submitted that already one of the daughters viz., Ms.Kaliammal, who is the sister of the petitioner, is enjoying the service connection in Survey No.134/2.

7. On perusal of the records, it seems that after partition, the petitioner was allotted lands in Survey No.133/9 and Survey No.134/2 was allotted to petitioner's one of the sisters viz., Ms.Kaliammal, in which, the petitioner sought for shifting of electricity connection and relied the Memo of the Chairman of the Tamil Nadu Electricity Board No.SE/RE/DE/SS/A1/C.473-1/83 dated 06.12.83. In the said Memo, it is stated as follows:

" 3. This concession will be applicable even in respect of pending applications i.e, where the service has still not been sanctioned but the applicant desires to change the location of the service to another well owned by him."

8. In view of the above Memo, since there is no impediment for the respondents to comply with the request of the petitioner, the impugned proceedings in Ka.No.A.E.E/O and E/Ka.Pa.Ka.Pa.Ko. Thani/No.034/09 dated 27.04.2009 is set aside and the respondents are directed to comply with the request of the petitioner to give electricity service connection to the Survey No.133/9 situated in Punjaikilambi Village, Kodumudi Registration, Erode Taluk instead of Survey No.134/2 within a period of six weeks from the date of receipt of a copy of this order if there is no legal impediment. Further, the petitioner is directed to pay necessary charges.

9. The Writ Petition is allowed accordingly with above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Executive Engineer,
Distribution South,
Tamil Nadu Electricity Board,
17, Gandhiji Road,
Erode - 1
2. The Assistant Engineer,
Operation and Maintenance
Tamil Nadu Electricity Board
Ganapathypalayam,
Erode Taluk - 638 153.

+1cc to M/s.S.K.Raameshuwar, Advocate Sr.59671
+1cc to M/s.S.Thangavel, Advocate Sr.58535

W.P.No.25943 of 2009

gp[co]
srg 08/08/2019

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