

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.35090 of 2004
and
W.M.P.Nos.42324 & 42325 of 2004

K.Muthusamy

... Petitioner

Vs

1. The Thasildar,
Sangagiri Taluk,
Salem District.

2. The Superintending Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Sangagiri Taluk,
Salem District.

3. The Superintending Engineer,
Public Works Department,
Mettur Dam Division,
Mettur Dam - 1,
Salem District.

... Respondents

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 order of the first respondent dated 23.02.2004 in O.Mu.No. 191/2004(F), quash the same and direct the second and third respondents to consider and effect supply of 5 HP Service Connection to the petitioner well situated in S.No.25/1B2, Kaveripatti Village, Salem District.

For Petitioner : Mr.S.Parthasarathy

For Respondents: Mrs.K.Bhuvaneswari, AGP
for R1 & R3

Mr.S.K.Rameshwar, SC for TNEB
for R2

O R D E R

When the petitioner herein had approached the first respondent seeking for a No Objection Certificate for the purpose of extending a 5 HP Service Connection, the first respondent had rejected the request, through their impugned order dated 23.02.2004, observing that if the petitioner's well was in existence prior to 1951, there was no reason as to why he had not obtained a electricity connection between the years 1951 and 2004. While observing so, the first respondent herein had stated that the evidence produced by the petitioner is not satisfactory.

2. The learned counsel for the petitioner submitted that the well was in existence even prior to 1951 in his property comprised in S.No.25/1B2, Kaveripatti Village, Sangagiri Taluk, Salem District and the partition deed dated 25.04.1951 evidences the existence of such a well. According to the learned counsel, though the petitioner had produced the partition deed before the Thasildar, the same was not considered.

3. On a perusal of the impugned order, it is not clear that as to whether the petitioner has produced the partition deed before the first respondent for the purpose of obtaining No Objection Certificate. It is the case of the petitioner that if the partition deed was considered by the first respondent, the No Objection Certificate would have been granted, since the partition deed evidences the existence of the well in the subject property. Without going into the question as to whether the partition deed was produced before the Thasildar or not, it would be appropriate if the matter is remanded back to the first respondent for re-consideration and by permitting the petitioner herein to produce the necessary evidences to substantiate that a well was in existence. सत्यमेव जयते

4. In the light of the above observations, the order dated 23.02.2004 of the first respondent herein, is set aside and the matter is remanded back to the first respondent for a fresh consideration. The petitioner herein is granted liberty to produce an additional representation along with supporting documents for the purpose of obtaining a No Objection Certificate. On receipt of such an application, the first respondent herein shall pass appropriate orders in accordance with law, within a period of 6 weeks from the date of receipt of copy of this order.

5. Accordingly, the writ petition stands ordered. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Thasildar,
Sangagiri Taluk,
Salem District.
2. The Superintending Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Sangagiri Taluk,
Salem District.
3. The Superintending Engineer,
Public Works Department,
Mettur Dam Division,
Mettur Dam - 1, Salem District.

+1 cc to Mr.S.Parthasarathy, Advocate, Sr.No. 43015

W.P.No.35090 of 2004
and

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CSL/03.07.2019

सत्यमेव जयते

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