

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2019

Coram:-

The Honourable Mr. Justice T.Raja

Writ Petition No.3251 of 2019

A.Sivaprakasam

... Petitioner

vs.

- 1.The Junior Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rayappanur, Kuttu Road Post,
Chinnasalem Taluk,
Villupuram District.
- 2.The Junior Engineer (O&M),
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Chinnasalem & Taluk,
Villupuram District.
- 3.The Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Kallakurichi, Villupuram District.
- 4.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Kallakurichi, Villupuram District.
- 5.The Chief Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Mount Road, Chennai - 2.
- 6.The Chairman,
Vigilance Officer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Mount Road, Chennai - 2.
- 7.The Special Officer,
The Chief Minister Cell,
Secretariat, Fort George, Chennai.

8.A.Pichai Pillai

9.Subramanian

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the respondents 1 to 7 to provide electricity service connection to the petitioner in respect of his pump-set well situated in the schedule mentioned land, with a further direction to award an amount of compensation of Rs.50,000/- (Rupees Fifty thousand only) to the petitioner herein.

For Petitioner : Mr.A.R.Nixon, Amicus Curie
for Mr.A.Sivaprakasam

For R1 to R6 : Mr.M.Varunkumar,
Standing Counsel

For R8 & R9 : Mr.P.Mohanraj, Amicus Curie
for Mr.A.Pichai Pillai and Mr.Subramanian

ORDER

It is averred in the affidavit filed in support of the writ petition that the petitioner/Mr.A.Sivaprakasam is the brother of respondents 8 and 9 / Mr.A.Pichai Pillai and Mr.Subramanian. He claims to be in possession and enjoyment of a Well situated in Survey No.23/4, but, he was unable to take water from his Well without the electricity service connection, therefore, he has filed an application before the fifth respondent / the Chief Engineer, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), Chennai, seeking electricity service connection to his Well. However, as the Electricity Board has not considered his request, the petitioner has filed this writ petition seeking for a direction to the official respondents to provide electricity service connection to his Well situated in S.F.No.23/4, Vasudevanallur Village.

2. When the matter was taken up on 05.02.2019, as the petitioner was appearing as party-in-person, this Court appointed Mr.A.R.Nixon, learned counsel, as Amicus Curie to assist the Court. Likewise, as the respondents 8 and 9 were also appearing as party-in-person, this Court again appointed one Mr.P.Mohanraj, learned counsel, as Amicus Curie to assist the Court.

3. It is submitted by Mr.A.R.Nixon, learned Amicus Curie for the petitioner that on earlier occasion, the petitioner had approached this Court by filing a writ petition No.19508 of 2012 seeking electricity service connection to his Well for irrigation purpose, with a further direction to award compensation of Rs.50,000/- to

him. This Court, by order dated 17.10.2012, taking note of the fact that one Mr.Adimoolam, son of Veeran, Vasudevanur Village, had applied for free agriculture service connection for his Well situated at S.F.No.23/4, Vasudevanur Village; that the said application was registered by the Divisional Engineer, O&M, Kallakurichi Office, vide Registration No.533, dated 03.02.1996; that on his turn, 30 days notice was issued to him on 01.11.2011 to produce all the revenue records and then to report his readiness to avail the free agriculture service connection on or before 03.02.1996; and that after the demise of said Adimoolam leaving behind his three sons, namely, Mr.Sivapragasam/petitioner herein and Mr.Pichaipillai and Mr.Subramanian/R8 & R9, as his legal heirs, the application rights goes to these three persons who are now holding the land in which the above Well exists, directed the second respondent therein to consider the claim of the petitioner in accordance with the existing provisions by giving opportunity of hearing to all the parties concerned and then pass orders.

4. Continuing his arguments, it is submitted that again, the petitioner had filed a writ petition No.16546 of 2013 seeking a direction to the official respondents to provide electricity service connection in respect of the Well situated in the schedule mentioned land. This Court, vide order dated 27.02.2014, taking note of the pendency of a Civil Suit in O.S.No.48 of 2013, dismissing the writ petition, directed the parties to abide by the result in the said Civil Suit. Since said Civil Suit filed by the ninth respondent was dismissed by the learned Sub-Court, Kallakurichi, on 27.09.2018, holding that suit was filed without impleading the necessary parties, there is no impediment to the Electricity Department to consider the application of the petitioner to grant electricity service connection. He has also produced an unregistered settlement / arrangement dated 21.12.1997 reached between the petitioner and the respondents 8 and 9 granting permission to make use of the suit land by the petitioner for irrigation purpose and this document was also accepted by the learned Sub-Court, Kallakurichi in O.S.No.48 of 2013. It is also further stated that giving electricity connection is not going to affirm any title to the suit property and the petitioner is also prepared to execute the bond as required by the Electricity Department.

5. In reply, Mr.P.Mohanraj, learned Amicus Curie appearing for the respondents 8 and 9 submitted that the petitioner's father Late Adimoolam had submitted an application for free agriculture service connection for his

Well situated at S.F.No.23/4 and that the said document was also registered by the Divisional Engineer, O&M, Kallakurichi, vide Registration No.533, dated 03.02.1996 and on reaching the seniority position, 30 days time was granted to him on 01.11.2011 to produce the relevant revenue documents and then report his readiness to avail the free agriculture service connection on or before 03.12.2010. But, unfortunately, before the said cut-off date, he had expired leaving behind his legal heirs, namely, the petitioner and the respondents 8 & 9. When the revenue records and patta stand in the name of all the legal heirs, they are entitled to get joint free agriculture service connection. Whiles, it cannot be given to the petitioner alone. Since the land in question has not been partitioned, unregistered settlement dated 21.12.1997, which is also relied on before the learned Sub-Court, Ulundurpettai, in O.S.No.195 of 2018, cannot be relied on by the petitioner.

6. Heard the learned counsel appearing on either side.

7. At the outset, it is to be noted that this Court, vide order dated 27.02.2014 passed in W.P.No.16546 of 2013, dismissing the writ petition filed by the petitioner herein, directed the petitioner to abide by the outcome of the judgment to be passed in O.S.No.48 of 2013, by observing that as soon as the trial Court delivers the judgment in the said suit, then it is open to the petitioner to chalk-out his further course of action in the manner known to law. Now, the said suit filed by the ninth respondent herein has been dismissed on 27.09.2018.

8. Further, it is also an admitted case that originally, the petitioner's father Late Adimoolam had applied for agriculture service connection for his Well situated at S.F.No.23/4, Vasudevanur Village and that the said document was also registered by the Divisional Engineer, O&M, Kallakurichi vide Registration No.533, dated 03.02.1996. But, before submitting his readiness report for free electricity service connection, the petitioner's father Late Adimoolam expired leaving behind the petitioner and the respondents 8 and 9 as his legal heirs. Therefore, as there has been an objection by the respondents 8 and 9 for giving electricity service connection, because, they are also entitled for joint right, this Court hereby directs the petitioner to submit a separate application in his name for getting electricity service connection to the land in question i.e. S.F.No.23/4, Vasudevanur Village, either for free electricity agricultural service connection

or on payment of charges if any, along with an extract of Chitta and Adangal certified by the concerned Village Administrative Officer standing in his name. On receipt of such application, the respondents 1 to 7 are directed to consider his request to provide electricity service connection to the land in question within a period of four weeks thereafter. Needless to state that granting of electricity service connection either free or on payment of charges to the petitioner by the Electrical Department to the land in question will not confer any title to him. This Court also places on record its appreciation to Mr.A.R.Nixon, learned Amicus Curie for the petitioner and Mr.P.Mohanraj, learned Amicus Curie for the respondents 8 and 9 for their valuable assistance in disposing of this case.

9. With the above directions, the writ petition is disposed of. No Costs.

Sd/--

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Junior Engineer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
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5.The Chief Engineer,
Tamil Nadu Generation and
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Mount Road, Chennai - 2.

6.The Chairman,
Vigilance Officer,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Mount Road, Chennai - 2.

7.The Special Officer,
The Chief Minister Cell,
Secretariat, Fort George, Chennai.

+1cc to Mr. M.Varunkumar,, Advocate SR.No. 26976

+1cc to Mr.A.Sivaprakasam , Advocate SR.No. 26228

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