

In the High Court of Judicature at Madras

Dated : 11.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mr.Justice P.RAJAMANICKAM

Writ Appeal No.734 of 2019 &
CMP.Nos.5907 & 5908 of 2019

M/s.Iswarya Women Hospital &
Fertility Center, rep.by its
Authorized Signatory
Dr.V.ChandralekhaAppellant / Petitioner

Vs

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
Velachery Road, Tambaram
East, Chennai-59.
2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Velachery Road, Tambaram
East, Chennai-59.
3. Mr.C.DanielRespondents / Respondents

APPEAL under Clause 15 of the Letters Patent against the
order dated 05.2.2019 in W.P.No.3463 of 2019.

Prayer in W.P.No.3463 of 2019: To issue a Writ of Mandamus
forbearing the 1st and 2nd Respondents from disconnecting the
temporoary electricity connection bearing consumer No.09-283-
101-574 to the petitioner.

For Appellant : Mr.A.L.Somayaji, SC for Mr.Prajoy

For Respondents 1 & 2 : Mr.S.K.Rameshwar

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.A.L.Somayaji, learned Senior Counsel
appearing on behalf of the appellant and Mr.S.K.Rameshwar,
learned Standing Counsel accepting notice for respondents 1 and
2.

2. The appellant is before us challenging the order dated 05.2.2019 in W.P.No.3463 of 2019, in and by which, the said writ petition filed by the appellant to forbear the respondent Board from disconnecting the temporary electricity connection granted to the appellant, was dismissed.

3. The case of the appellant is that they got a valid lease deed in respect of the premises in question entered into between the appellant and the third respondent dated 23.3.2018 and in terms of the said lease deed, the lease is for a period of six years. The appellant established a fertility centre and is carrying on their activities in the said premises.

4. It appears that there is a dispute between the appellant and the third respondent - landlord, which has now escalated into a civil dispute and now pending before the District Munsif Court, Tambaram in O.S.No.189 of 2018 wherein the appellant sought a decree for permanent injunction to restrain the third respondent from interfering with the peaceful possession and enjoyment of the premises in question and for mandatory injunction directing the third respondent to comply with the conditions contained in the said lease deed dated 23.3.2018.

5. It also appears that the appellant filed an application for interim injunction in the said suit and that the same is pending. In the meantime, there appears to have been a move to disconnect the temporary electricity service connection granted to the appellant, which, according to the appellant, is at the behest of the third respondent herein. Therefore, the appellant rushed this Court and filed the said writ petition for the aforementioned relief. However, the said writ petition was dismissed on the ground that a civil dispute is pending between the appellant and the third respondent.

6. When the appellant moved this Court for dispensing with the production of the certified copy of the order dated 05.2.2019, as a web copy has been provided, we directed the learned Standing Counsel for the respondent Board to get instructions in the matter as to whether there is any move to disconnect the electricity supply granted to the appellant and if so, at whose instance, action was initiated.

7. Today, the learned Standing Counsel for the respondent Board has got written instructions from the second respondent vide communication dated 25.2.2019. He submits that as on date, the electricity service connection granted to the appellant is in live status. However, the third respondent, who is the owner of the premises and in whose name, the permanent electricity connection stands, has made a request to disconnect the electricity supply.

8. From the above facts, it is evident that the landlord had given a letter to the respondent Board to disconnect the electricity supply on account of the ongoing dispute between the appellant and the third respondent. Be that as it may, if the appellant is admittedly in possession of the premises in question and running a fertility centre, obviously the respondent Board cannot disconnect the electricity supply nor insist upon a no objection certificate from the third respondent, since the parties are at loggerheads and are before the Civil Court. Since the respondent Board stated that the electricity service connection granted to the appellant is in live condition as on date, we direct the same to be continued to be kept in live condition. However, if the third respondent insists upon to disconnect the electricity supply standing his name, then liberty is granted to the appellant to apply for a temporary service connection in their name by producing a copy of the lease deed, execute an indemnity bond and comply with the conditions relating to deposit.

9. With the above observations and directions, the writ appeal stands disposed of. It is made clear that this judgment will not, in any manner, prejudice the rights of the third respondent in the civil proceedings or in exercising his rights as a landlord in terms of the lease deed dated 23.3.2018. No costs. Consequently, the connected CMPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

RS
To

Sub Assistant Registrar

1. The Superintending Engineer,
Tamil Nadu Electricity Board,
Velachery Road, Tambaram
East, Chennai-59.

2. The Assistant Engineer,
Tamil Nadu Electricity Board,
Velachery Road, Tambaram
East, Chennai-59.

+1cc to M/s.AAV Partners, Advocate, S.R.No.22500
+1cc to M/s.SK.Rameshuwar, Advocate, S.R.No.22548

KJ(CO)
SSM(29/03/2019).

WA.No.734 of 2019 & CMP.
Nos.5907 & 5908 of 2019