

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No. 831 of 2019
and
C.M.P.No.6497 of 2019

G. Dayalan

...Appellant

-vs-

1. The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Limited, (TANGEDCO),
Anna Salai, Chennai - 600 002.
2. The Assistant Engineer,
O & M Mahalingapuram,
TANGEDCO-West,
Nungambakkam, Chennai - 600 034.
3. The Managing Trustee,
Chokkavel Subramania Swamy Temple,
Choolai, Chennai - 600 012.

...Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.No.29149 of 2016 dated 19.12.2018.

Prayer in WP.No.29149/16 : Petition under Article 226 of the Constitution of India, Praying for the issue of a Writ of Mandamus, directing the 2nd Respondent to consider the petitioners representation dated 17.06.2016 and the 2nd Respondent to take action based on that on merits for power supply to the petitioners hair cutting saloon at Door No.11-A Jayalakshmipuram Main Road Nungambakkam Chennai 600 034.

For appellant : Mr.P.Muthukumara Swamy
for Mr.K.Kumaresh Babu

For Respondents : Mr.P.R.Dilip Kumar
(for R.1 & R.2)

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

This Appeal by the writ petitioner is directed against the order in W.P.No. 29149 of 2016, dated 19.12.2018.

2. We have heard Mr.P.Muthukumara Swamy for M/s.K.Kumaresh Babu, learned counsel for the appellant and Mr.P.R.Dhilip Kumar, learned Additional Government Pleader for the respondents.

3. The writ petition was filed by the appellant to direct the respondent/electricity Board to consider the representation and grant power supply to the appellant's hair cutting saloon at Door No. 11A, Jayalakshmipuram Main Road, Nungambakkam, Chennai - 34.

4. The writ petition was dismissed by the impugned order on the ground that the land which the appellant has constructed the shop and running hair cutting saloon is owned by the third respondent/temple. The third respondent/temple has raised an objection before the second respondent. Though the third respondent was impleaded as party, none appeared for the third respondent. Therefore, we propose to dispose of this appeal dispensing with notice to the third respondent/temple. However, we make it clear that this order will in no manner prejudice the rights of the third respondent in respect of their claim for the land in question or if any proceedings has been initiated by the third respondent for eviction of the appellant.

5. The appellant is stated to be running hair cutting saloon in the premises which was given on rent. They further state that they have put up construction and the property has been assessed to tax and the appellant is carrying on business.

6. The learned standing counsel for the respondent/Electricity Board submitted that the objection has been raised by the temple for grant of electricity supply. Thus, there appears to be a dispute between the appellant and the third respondent/temple. In such circumstances, the third respondent/temple will not grant any No Objection Certificate to the appellant for production of the same before the Electricity Board for grant of electricity supply.

7. The Tamil Nadu Electricity Distribution Code provides for a remedy in such a contingency under Clause 27(4) of the Code which reads as follows:

"(4) An intending consumer who is not the owner of the premises shall produce a consent letter in

Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the license against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

8. In terms of the above regulation, if the owner refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute indemnity bond in Form 6 of the Annexure III indemnifying Electricity Board against any loss on account of the disputes arising out of effecting service connection to the appellant and acceptance to pay security deposit twice the normal rate.

9. Therefore, if the appellant complies with the said condition by approaching the second respondent, then the second respondent shall consider the request for grant of temporary electricity supply. As observed by us, earlier even if the appellant obtains temporary electricity supply for the premises that will in no manner advance his case in the proceedings initiated by the third respondent/temple for eviction. Above direction be complied with by the second respondent within a period of three weeks from the date of which appellant approaches the second respondent with appropriate application.

10. With the above observations, the writ appeal stands disposed of to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

mrm

To

1. The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Limited, (TANGEDCO),

Anna Salai, Chennai - 600 002.

2. The Assistant Engineer,
O & M Mahalingapuram,
TANGEDCO-West,
Nungambakkam, Chennai - 600 034.

3. The Managing Trustee,
Chokkavel Subramania Swamy Temple,
Choolai, Chennai - 600 012.

+1cc to Mr.K.Kumarashbabu, Advocate SR.No.24903

+1cc to Mr.P.R.Dhilipkumar, Advocate SR.No.24501

Writ Appeal No. 831 of 2019
and
C.M.P.No.6497 of 2019

NA (CO)
GMV (02/04/2019)