

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3598 of 2018

Mayavan

.. Petitioner

-vs-

1.The Superintending Engineer,
Tamil Nadu Generation &
Distribution Corporation Limited
(TANGEDCO),
K.N.Colony, Salem-636 014.

2.The Assistant Engineer,
Tamil Nadu Generation &
Distribution Corporation Limited
(TANGEDCO),
Perumal Koil Street,
Goodamalai,
Gangavally Taluk,
Salem District-636 105.

... Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Mandamus directing the Assistant Engineer, Tamil Nadu Generation
and Distribution Corporation Limited (TANGEDCO), Perumal Koil
Street, Goodamalai, Gangavally Taluk, Salem District-636 105,
the second respondent herein to consider the application dated
25.03.2017 of the petitioner to effect electricity supply to the
petitioner's building in Door No.12/83, North Street, Goodamalai
Post, Gangavally Taluk, Salem District within a time frame as
may be fixed by this Court.

For Petitioner : Mr.A.V.Arun

For respondents : Mr.S.K.Raameshuwar,
Standing Counsel

ORDER

The writ petition has been filed seeking a direction to
the Assistant Engineer, Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO), Salem District-636 105, the
second respondent herein to consider the application dated
25.03.2017 of the petitioner to effect electricity supply to the

petitioner's building situated at Door No.12/83, North Street, Goodamalai Post, Gangavally Taluk, Salem District within a time frame.

2.Learned counsel appearing for the petitioner would submit that the petitioner has purchased 1/3rd share of the land in S.Nos.124/1 and 125/3 belonging to one Durai and his minor children by a sale deed dated 13.08.2004 on the file of the Sub Registrar, Gangavally and thereafter, he has been in possession and enjoyment of the same. After the purchase of the said lands, he obtained patta in his name along with others in Patta No.215. After constructing a residential building in the said lands, when the petitioner applied for single phase electricity supply connection in the month of March 2017 before the second respondent herein and submitted his application duly filled in as per format along with the Electrical Inspector's Certificate, he was directed to produce documents of ownership of the building. Despite producing house tax receipts and the copy of the sale deed standing in the name of the petitioner, the second respondent has not come forward to consider his application to effect the electricity supply and therefore, the petitioner has been advised to come to this Court.

3.According to the learned counsel appearing for the petitioner, as per Section 43(3) of the Electricity Act, 2003, if a distribution licensee is not come forward to consider the application, he shall be liable to a penalty which may extend to one thousand rupees for each day of default. Since in the present case, the petitioner is admittedly owner of the said land on the basis of the registered sale deed dated 13.08.2004 in respect of 1/3rd of property in S.Nos.124/1 and 125/3 situated at Door No.12/83, North Street, Goodamalai Post, Gangavally Taluk, Salem District, merely for the reason that a Civil Suit filed by the son of the petitioner's vendor, the respondents electricity board cannot delay unnecessarily. More over, no order has been passed in the said pending suit. Therefore, there is no impediment for the respondents to accept the request of the petitioner.

4.A detailed counter affidavit has been filed by the respondents. Learned Standing Counsel appearing for the respondents would submit that after the petitioner applied for the electricity service connection along with the house tax receipts on 29.05.2017, an objection letter has been received from one D.Ramesh and the Original Suit in O.S. No.116 of 2005 was pending on the file of the Fast Track Court, Salem in respect of the above Survey Nos.124/1 and 125/3. Therefore, the respondents sent a letter to the petitioner to clear the objection, but, the petitioner did not produce the actual possession certificate and tax receipts and he has not taken any action to clear the objection.

5.It is an admitted case that the petitioner has purchased 1/3rd share of the land in S.Nos.124/1 and 125/3 belonging to one Durai and his minor children by a sale deed dated 13.08.2004 and thereafter, he has been in possession and enjoyment of the same. After the purchase of the said lands, he obtained patta in his name along with others in Patta No.215. It is seen that one Ramesh, who is the son of the petitioner's vendor, has filed the suit in O.S. No.116 of 2005, which is pending without any order. More over after the purchase of the property in question, the petitioner has put up a residential building and the same has been assessed to tax and the tax receipts also have been produced by the petitioner. Therefore, merely for a frivolous objection raised by one Ramesh, who is admittedly the son of the petitioner's vendor, the respondents cannot deny the electricity service connection to the petitioner. More over, no order has been passed by the Civil Court in favour of said Ramesh or his vendor Durai.

6.Learned Standing Counsel appearing for the respondents sought for production of indemnity bond.

7.But this Court is not inclined to accept the said request. As I mentioned above, when the petitioner is the absolute owner of the property, the respondents cannot deny electricity service connection to the petitioner. Therefore, the respondents are directed to effect electricity service connection to the petitioner within a period of 30 days from the date of receipt of a copy of this order, failing which the respondents shall be liable to pay the penalty as per Section 43 (3) of the Electricity Act, 2003. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Superintending Engineer,
Tamil Nadu Generation &
Distribution Corporation Limited
(TANGEDCO),
K.N.Colony,
Salem-636 014.

WEB COPY

2.The Assistant Engineer,
Tamil Nadu Generation &
Distribution Corporation Limited
(TANGEDCO),
Perumal Koil Street,
Goodamalai,
Gangavally Taluk,
Salem District-636 105.

+1cc to Mr.A.V.Arun, Advocate, S.R.No.31906

W.P.No.3598 of 2018

SJ(CO)

RRS (28/05/2019)



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