

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6634 of 2019 and
WMP.Nos.7459 and 7461 of 2019

M.Rajambal

...Petitioner

Vs

1. The Executive Engineer (O&M),
Tamil Nadu Generation and Electricity
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Paramathivelur-638 182,
Namakkal District.
2. The Assistant Engineer (O&M),
Rural, Tamil Nadu Generation and
Electricity Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Valaiyapatti Road, Mohanur-637 015,
Namakkal 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 entire records relating to the impugned order passed by the 1st respondent in his Proceedings No.Ka.No.EE/O&M/PVe/Va.U/ Ka.Tha.Po.Petition/No.021/2018 dated 29.06.2018 and quash the same and consequently, directing the respondents to give electricity agricultural service connection to the petitioner's borewell situated in S.No.191/7, Pettapalayam Village, Mohanur Taluk, Namakkal District.

For Petitioner : Mr.C.Prakasam

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

ORDER

Challenging the order passed by the 1st respondent in his Proceedings in No.Ka.No.EE/O&M/Pve/Va.U/Ka.Tha.Po.Petition/No.021/2018 dated 29.06.2018, quash the same and for

consequential direction, directing the respondents to give electricity agricultural service connection to the petitioner's bore well situated in S.No.191/7, Pettapalayam Village, Mohanur Taluk, Namakkal District, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that the petitioner is owning agricultural lands situated in S.Nos.191/8B, 191/4A, 191/3, 191/7 and 191/8C, Pettapalayam Village, Mohanur Taluk, Namakkal District to an extent of 1.19 acres and in the said land, there is a common well situated in S.No.191/9 in which the petitioner is having 3/12 share. Therefore, the petitioner made an application along with Indemnity Bond before the respondents which was registered vide Registration No.EE/PV/A419/2005-06 dated 24.10.2005. Since the other co-owners, who are having 9/12 shares in the said common well, have not shown any interest to get any agricultural electricity service connection, the petitioner has applied for getting agricultural electricity service connection for the above said Well by paying Caution Deposit amount and other prescribed fee. While waiting for the service connection, fortunately her seniority has also reached in the year 2016. The respondents also asked her to pay the prescribed fee for issuing readiness certificate. Accordingly, the petitioner paid Rs.90,315/- in the year 2016 itself. But the 1st respondent herein, namely, the Executive Engineer (O&M), Tamil Nadu Generation and Electricity Distribution Corporation Limited, Tamil Nadu Electricity Board, Paramathivelur, Namakkal District, insisted the petitioner to get a 'No Objection Certificate' from the co-owners. For the reason that it is difficult to obtain 'No Objection Certificate' from other co-owners, the petitioner made a representation before the respondents stating that she can be given service connection to the bore well situated in S.F.No.191/7, Pettapalayam Village, Namakkal District which exclusively belongs to her. Since the Open Well situated in S.F.No.191/9, which is owned by the petitioner and others, is situated within a distance of about 100 metres from the Bore Well situated in S.F.No.191/7, the respondents have raised some objection stating that the petitioner's seniority cannot be extended to the different well. Therefore, the petitioner has come to this Court, challenging the order passed by the 1st respondent dated 29.06.2018.

3. A counter affidavit has been filed by the respondents 1 and 2.

4. Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the respondents submitted that originally, the petitioner has made an application on 24.10.2005 for getting a separate agricultural service connection for the Open Well situated in

SF.No.191/9 of Pettapalayam Village. Since the said Well is owned by the petitioner jointly with other co-owners, a 'No Objection Certificate' was sought for. Finding it difficult, the petitioner has not come back with the 'No Objection Certificate'. In the meanwhile, her seniority was also reached in January, 2018 for execution of the extension work, but objections were raised. Since the other co-owners also have raised objections in their letter dated 05.02.2018 for the Open Well located in SF.No.191/9 of Pettapalayam Village while executing service connection to the petitioner, therefore, the petitioner was asked to clear the dispute from other shareholders of the Well. It is at this stage, the petitioner has asked for change of service connection to the nearby bore well situated in SF.No.191/7 which is exclusively owned by her vide letter dated 12.03.2018. As per clause 27(2) and (4) of the Tamil Nadu Electricity Distribution Code 2004, by letter dated 29.6.2018, the petitioner was asked to get 'No Objection Certificate' from the shareholders of the Open Well located in S.F.No.191/9 Pettapalayam Village to change the service connection to a bore well located in nearby S.F.No.191/7, which is exclusively belongs to the petitioner.

5. This Court is unable to find any justification in asking the petitioner to give a 'No Objection Certificate' only in respect of the Open Well situated in S.F.No.191/9 when the petitioner was having objection from her co-owners in respect of giving agricultural electricity service connection to the Open Well situated in S.F.No.191/9. Finding it difficult to secure the 'No Objection Certificate' from her co-owners in respect of the Open Well, she has also made a request to consider her application in respect of the bore well situated in S.F.No.191/7 which is hardly 100 metres away from the disputed well. Therefore, this Court absolutely finds no impediment for the Electricity Board to give agricultural electricity service connection to the petitioner's bore well situated in S.F.No.191/7 of Pettapalayam Village on the basis of the seniority reached for the following two reasons, namely, firstly, the petitioner, who is the absolute owner made an application on 24.10.2005 for getting separate agricultural service connection for the Open Well situated in S.F.No.191/9 of Pettapalayam Village. Secondly, since the same was objected by the co-owners and she was not able to get the 'No Objection Certificate' from other co-owners, she has moved another application seeking agricultural electricity service connection for the bore well situated in her own land in S.F.No.191/7 which exclusively belongs to her situated in the same survey number, namely, 100 metres away from the aforesaid Open Well.

6. At this stage, the learned Standing Counsel for the respondents submitted that the petitioner may be directed to

submit an application along with the ownership certificate, the title deeds with regard to the land and also the bore well situated in S.F.No.191/7 of Pettapalayam Village, within a period of one week from the date of receipt of a copy of this Order and on receipt of the same, the respondents will provide Electricity Service Connection within two weeks thereafter.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer (O&M),
Tamil Nadu Generation and Electricity
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Paramathivelur-638 182,
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Rural, Tamil Nadu Generation and
Electricity Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Valaiyapatti Road, Mohanur-637 015,
Namakkal District.

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.36999
+1cc to Mr.C.Prakasam, Advocate, S.R.No.36840

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KK(CO)
CS/10/06/2019