

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.09.2019

PRONOUNCED ON : 10.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.7721 of 2019

K.G.Mannar Naidu

... Petitioner

Vs

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Vellore Electricity Distribution Circle,
Vellore - 632 006.

2.The Junior Engineer,
Tamil Nadu Electricity Board,
Vellore Electricity Distribution Circle,
Tiruvalam, Vellore District.
632 515.

3.A.Krishnaveni

4.Ramamurthy

5.Thirumathi.Lalitha

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus after calling for the records relating to the order No.Ka.No.JEE/G&D/Ko.Thani/No.008/2018-2019 dated 18.01.2019 of the second respondent to provide electricity to the Agricultural land in S.No.508/2 of Ilayanallur Villae, Katpadi Taluk, Vellore District.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent

Nos.1 & 2

: Mr.M.Varunkumar,
Standing Counsel

For Respondent

Nos.3 to 5

:Mr.M.Muthappan

ORDER

The petitioner herein is the owner of the land at S.No.532/3A and 508/2, Ilayanallur Village, K.R Thangal Post, Vinnampalli, Vellore District. The well in S.No.532/3A has failed to give sufficient water for cultivation purpose and therefore, the petitioner has dug a new bore well in the land situated at S.No.508/2. The electrical service connection for the well at S.No.532/3A has to be shifted to S.No.508/2, where the new bore well is digged.

2.For the said purpose, the petitioner made application for transfer of the service connection and the same was considered by the Electricity Department and as per the direction of the Department, the petitioner has also deposited a sum of Rs.9,170/- as estimated cost for the transfer of service connection. While being so, the respondents 3 to 5 raised objection for laying electricity line through their land. Therefore, the Electricity Department stopped the erection work. The respondents 3 to 5 filed writ petition in W.P.No.9884 of 2015 seeking direction not to lay electricity cable through their lands.

3.This Court on 06.04.2015, disposed the said writ petition with a direction to the Electricity Department to consider the representation of the respondents 3 to 5 herein and pass order. The respondents 1 and 2 herein in view of the objection made by the respondents 3 to 5, are not providing service connection and rejected the request of the petitioner vide impugned order dated 18.01.2019. The said order is challenged in this writ petition.

4.The learned counsel for the petitioner would submit that the land of the petitioner as well as the respondents 3 and 4 are all agricultural land solely depending upon the electricity for the agricultural purpose. While the service connection to the petitioner is drawn from the pole erected in his land, the respondents 3 to 5 with ulterior motive object in passing of electrical cable over their lands. Since, the lands of the respondents 3 to 5 being vacant, no prejudice would be caused to them if the cable passes through their lands.

5.The learned counsel for the respondents 3 to 5 would submit that, the petitioner already having a service connection for his poultry farm in S.No.532/3A vide service connection No.208-015-478 in tariff III AI (cottage and tiny industries). The service connection for bore well (agriculture) would be at tariff V. Hence, the existing service connection, tariff III - AI, cannot be transferred to agricultural purpose which is under Tariff V. Besides, the petitioner has applied for service connection in S.No.508/2 for domestic purpose which comes under tariff I-A.

6.The electricity authorities originally sanctioned the service connection to the petitioner in the shortest estimated route through the land of one Mr.Thiyagarajan. Since, the said Mr.Thiyagarajan made objection, the petitioner requested the Electricity Board Authorities to shift the route for getting service connection. The shifted route passes through the lands of the respondents 3 to 5 and therefore, they have raised their objection.

7.It is also averred in the counter of the respondents 3 to 5 that the petitioner is allotting service connection for his poultry farm bearing service connection No.478 which is closer to his residence. It is possible for the petitioner to draw line from the Electricity Board near his land in S.No.508/2. There is no provision under the Electricity Act or Tamil Nadu Electricity Distribution Code, enabling the Electricity Board to enter into anyone's land for providing electricity connection to any consumer, without the consent of the said land owners.

8.In the counter filed by the Electricity Board (the respondents 1 and 2), it is clearly stated that the petitioner being an intending consumer is bound by the Electricity Act, 2003; the Tamil Nadu Electricity Supply Code, 2004 and the Tamil Nadu Electricity Distribution Code, 2004. The petitioner has not given any application for shifting of his agricultural service connection. The application received by the Electricity Department is for electricity service connection for domestic purpose which is located in S.No.508/2. The petitioner paid Rs.9,170/- for erection of poles. In view of the objection by the respondents 3 to 5, the Electricity Department is unable to erect poles.

9.After hearing the submissions of the respective counsels, this Court while holding that the petitioner is entitled for service connection, if, he is otherwise eligible even if his neighbours refuse permission unreasonably to draw the line through their lands if the route is most feasible one. Drawing cable through their lands, the respondents 3 to 5 cannot object as a matter of right without any genuine reason to object. The land as such is vacant and or under cultivation. In future, if the respondents 3 to 5 intend to put up any structure and if the proposed electrical line is going to cause any hindrance, then, the Electricity Department (respondents 1 and 2 herein) shall shift the line at the cost of the petitioner. For the said purpose, the respondents 1 and 2 shall get an undertaking from the petitioner that he will bear the cost of shifting, if necessary, in future. With this undertaking affidavit, the application of the petitioner herein shall be considered by the respondents 1 and 2 (Electricity Board) in accordance with the Electricity Act and Code.

10.With the above directions, the writ petition is disposed of. No costs.

jbm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Vellore Electricity Distribution Circle,
Vellore - 632 006.

2.The Junior Engineer,
Tamil Nadu Electricity Board,
Vellore Electricity Distribution Circle,
Tiruvalam, Vellore District.
632 515.

+1cc to Mr.M.Varun Kumar, Advocate, SR.No.78346
+1cc to Mr.S.T.Varadarajulu, Advocate, SR.No.78212
+1cc to Mr.M.Muthappan, Advocate, SR.No.78042

W.P.No.7721 of 2019

Kak(14/10/2019)

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