

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.07.2019

PRONOUNCED ON : 19.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.13754 of 2019 and
W.M.P.No.13832 of 2019

Senniappan @ Sennimalaigounder, ... Petitioner

Vs

1.The Chairman,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai - 600 002.

2.The Superintendent Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Coimbatore South, Tatabad,
Coimbatore City.

3.The Assistant Engineer,
Tamil Nadu Electricity Generation
and Distribution Corporation Ltd.,
Ranganathapuram, Suler - 641 402,
Coimbatore District.

4.The Executive Officer,
Town Panchayat,
Suler - 641 402.
Coimbatore District.

5.R.Lakshmi

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records of the third respondent herein pertaining to the letter in Ka.No.AE/E.Pa/North Suler/Kovai Circle/Ka.No.57/18 dated 23.04.2018 and quash the same and further direct the third respondent herein to provide industrial electricity service connection on converting temporary electricity service connection in S.C.No.053-003-1100 provided

to the petitioner for construction of the power loom factory which is morefully comprised in S.F.No.75/2C, 2G (old S.F.No.75) of Sulur Village, Sulur Taluk, Coimbatore District.

For petitioner	:Mr.P.M.Duraiswamy
For Respondents1 to 3	:Mr.S.K.Rameshwar, Standing Counsel
For 4 th Respondent	:Mrs.K.Bhuvaneshwari
For 5 th Respondent	:Mr.N.Ponraj

ORDER

According to the petitioner, he and his mother jointly purchased 3.15 acres of land in Sulur Village on 18/08/1977 comprising SF Nos. 75,76 and 80. During the life time of his mother and thereafter, the said property is in exclusive possession and enjoyment of the petitioner. He has invested huge money to develop the land. He has constructed a farm house in it and obtained electricity service connection, in his name. He has installed power loom machineries in New SF Nos.2C and 2G (old SF No.75). The third respondent (Assistant Engineer, TANGEDCO, Sulur) has provided temporary electricity service connection for the construction of the factory. When the petitioner applied for permanent connection with all the required documents, the third respondent declined to convert the temporary connection into permanent connection saying the 5th respondent (sister of the petitioner) objecting, in view of her partition suit pending in the II Additional Sub-Judge, Coimbatore. The written communication dated 23/04/2018 of the 3rd respondent refusing to give permanent service connection to the petitioner is challenged in this writ petition.

2.According to the petitioner, the property stands in his name. He has produced all documents relevant and necessary for permanent electricity service connection and he is also ready to give any indemnity bond with an undertaking to allow disconnection of the Electricity Service in case his sister, the 5th respondent succeeds in her suit for partition where, she claims 1/6th share in the property. Several years after the demise of his mother, the 5th respondent has filed suit for partition though she has no right and never been in possession of the property. Clause 27(4) of the Tamil Nadu Electricity Distribution Code, envisage in case of disputes service connection can be provided after getting indemnity bond. While so, for the reason partition suit filed by the sister of the petitioner. Pending the respondents are refusing to give permanent service connection to the petitioner power loom industry.

3.The 2nd respondent has filed counter on her behalf and on behalf of respondents 1 and 3. In the said counter affidavit, it is stated that the petitioner was given temporary service connection for constructing a building after verifying his title deed, ownership certificate issued by the Thasildar and the patta copy. At the time of providing temporary service connection, the patta was in the exclusive name of the petitioner. The temporary connection was provided under tariff VI. Thereafter, on 21.11.2017, the petitioner applied for permanent connection under tariff IIIA 2 for industrial purpose. Meanwhile, the sister of the petitioner (5th respondent) made objection not to give permanent service connection and to disconnect the existing temporary service connection. Therefore, to consider the request of the petitioner to provide permanent industrial service connection, the petitioner was asked to produce documents relating to revenue records to show that the land belongs to him exclusively. Without producing the relevant documents, the petitioner has approached this court.

4.The fifth respondent, on whose objection the other respondents have refused permanent service connection to the petitioner, in her counter, has stated that, after the demise of their mother Deivanaiammal, she and another sister Karupathai along with the petitioner are entitled for equal share in the property of their mother. When the petitioner refused to give their shares, she has filed the suit for partition before the sub-court, Coimbatore which is pending. While so, in order to defeat their property rights, the petitioner has put up construction without authorisation for power loom factory and taking steps to get permanent industrial service connection. This was objected by the 5th respondent.

5. It is further contented that, the building being not authorised, no service connection for unauthorised building be given. The construction of a building without authorisation and getting power supply to such building are prohibited under law. The official respondents ought not to have given the temporary connection for the building. The prayer of the writ petitioner is baseless. The grounds relied by the petitioner is applicable only to domestic connection and not for industrial connection. In support of his submission, the learned counsel for the 5th respondent would rely on a judgment of this Court in V.S.Krishna and another -vs- The Chairman and Managing Director, TANGEDCO and others (W.P.No.23946 of 2015 dated 07.01.2016) wherein, the learned Judge has observed as follows:-

"6.Be that as it may, it has to be seen as to whether the construction is an authorised construction in accordance with the building planning permission and then alone, electricity service connection could have been given and however, this fact has not been verified. Be that as it may, the representation given by the petitioners is now pending consideration of the respondent authorities and along with the representation, the petitioners have enclosed the copies of the documents as well as state full facts as to the basis of their claims. Therefore, it would be appropriate for the authority to consider the representation. However, in view of the observations made in this order, this Court is of the view that the Executive Engineer/O & M/Adyar (4th respondent) should consider the representation on merits and in accordance with law, after notice to the petitioners as well as the respondents 6 and 7. It is also bound to the 4th respondent to verify from the Corporation of Chennai as regards the action taken by them pursuant to the notice issued to the 6th respondent dated 04.11.2015 (referred supra). After hearing the parties in person and after considering the entire documents, the 4th respondent shall pass a reasoned order on merits and in accordance with law....."

6.The petitioner being the owner of the property, jointly purchased by him and his mother way back in the year 1977 claims that, after the demise of his mother her share devolved upon him and he is enjoying the property absolutely. Whereas, one of his sister who is the 5th respondent herein claim 1/6th share in the property and has filed partition suit which is pending before the Subordinate Court, Coimbatore.

7.The right of the petitioner seeking electricity connection cannot be denied just because the 5th respondent claims 1/6th share in the property and for pendency of partition suit. When the objector admits the petitioner also have right in the property, if the petitioner proves possession of the property and right in the property, there shall be no legal impediment

for the respondents in providing permanent industrial connection subject to out come of the partition suit. The 3rd respondent has to consider only the other requirements such as, building permission, patta, tax receipts etc., for giving electricity service connection.

8. Therefore, if the petitioner furnishes all other necessary documents, the 3rd respondent shall consider his application and provide service connection after getting an undertaking from the petitioner that the permanent industrial service connection to his factory will not be anyway taken advantage by him in the Civil Suit filed by the 5th respondent for partition and he will not claim that, the permanent electricity connection is provided to him in recognition of his absolute title. Further, the petitioner should also give an undertaking that, he will voluntarily surrender the service if any adverse order/judgment passed in the partition suit.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

jbm
To

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and Distribution Corporation Ltd.,
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Chennai - 600 002.

2. The Superintendent Engineer,
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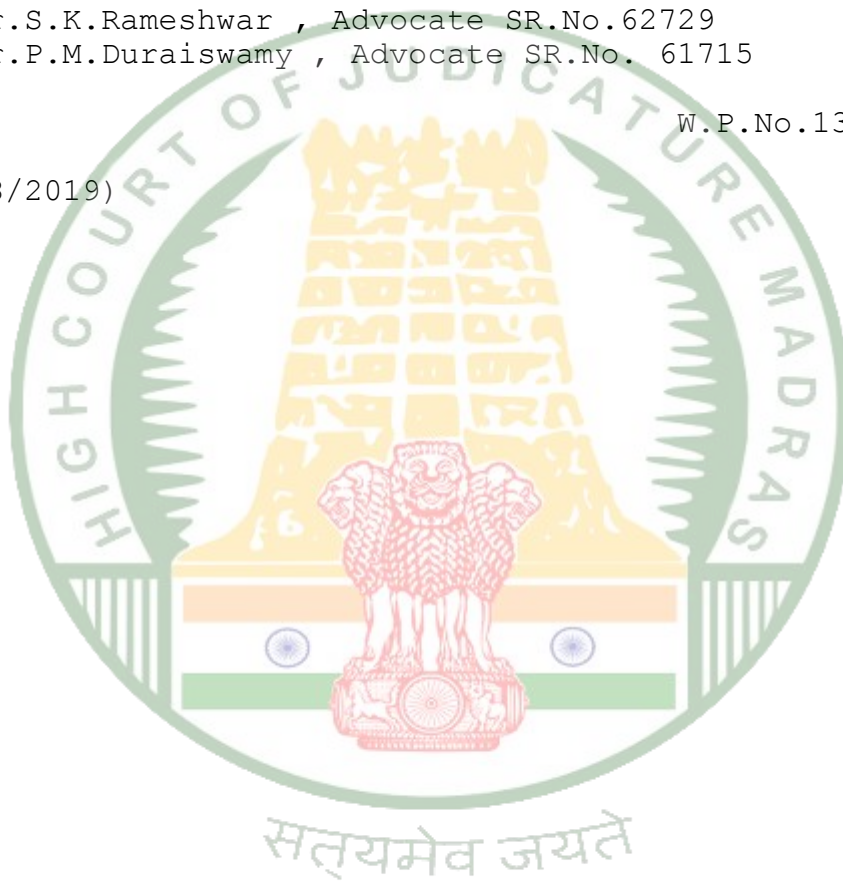
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+1cc to Mr.S.K.Rameshwar , Advocate SR.No.62729
+1cc to Mr.P.M.Duraiswamy , Advocate SR.No. 61715

W.P.No.13754 of 2019

VBA (CO)
A.SK(19/08/2019)



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