

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.10.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.14889 of 2019
and
W.M.P.No.14874 of 2019

Smt.Gilda Johsianelroudayermarie Samuel

... Petitioner

Vs

1.The Government of Pondicherry,
Represented by its Secretary,
Electricity Department,
Pondicherry.

2.The superintending Engineer - Circle I,
Electricity Department,
Pondicherry.

3.The Assistant Executive Engineer (Town-1),
Electricity Department,
Pondicherry.

4.The Junior Engineer (Town-Central O & M),
Electricity Department,
Pondicherry.

5.Suganthi
6.Saravanane

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, praying to direct the respondents 2 to 4 not to entertain any application for granting separate/new electricity connection or effect any name transfer in the existing electricity connection in respect of Electricity policy number 03.10.06-0745A pertaining to the property situated in Town Survey No.17, Block No.15, Ward-D, Pondicherry, in favour of the respondents 5 and 6.

For Petitioner :Mr.B.Balavijayan for
Mr.V.Sivalingam

For Respondents :Mr.A.V.Ramalingam
Additional Government Pleader for R1 to R4
S.C.Vishwanath R5 and R6.

ORDER

By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.B.Balavijayan and Mr.A.V.Ramalingam, Additional Government Pleader for R1 to R4 and Mr.S.C.Vishwanath for R5 and R6, appearing on behalf of the respondents.

3. The petitioner claiming herself as the owner of the premises, Door No.33, Needarajapayer Street, Pondicherry, has filed the present writ petition, seeking Mandamus to direct the respondents 1 to 4 not to give separate electricity connection to the 6th respondent, who according to the petitioner/tenant, is residing in the upstairs of the said building.

4. The averments made in the affidavit clearly indicate there is a dispute between the petitioner and the 6th respondent regarding the property and its enjoyment. The common electricity service enjoyed by them was disconnected for non payment of the consumer charge to the tune of Rs.53,622/-. The suit for title, petition for eviction, application for restoring the electricity before the Consumer Court are some of the litigations pending between the parties. While so, the present writ petition has been filed to prevent the 6th respondent from getting separate service connection.

5. The counter filed by the respondents 1 to 4 reads as follows:

"6. I respectfully submit that the disputed house property at No.33, Needarajapayer Street, Puducherry belongs to French National. As per the available Official records, one No. of Electricity service connection was existing in the name of Thiru.Joseph Thiruon (Father in law or original owner, Mr.Louis Aroquiam LECYNE residing at France), based on undertaking effected during the year 1964 as the care taker of the house, covered by Policy Code. 3470 (03-

10-06-0745), effected during the year 1964 for commercial purpose. The above said service connection has been changed in to "A2" lighting for domestic purpose with effect from January 1967 in the name of Thiru. Joseph Thiruon and all the remittances since 1964 were received by this Department in the name of Thiru. Joseph Thiruon, until 2015.

7. I respectfully submit that pursuant to the report of the Assistant Executive Engineer (Town-I), that one, Tmt. Aroquiamarie Marie Stella, by letter dated 4-09-2015 has intimated that she is residing in the said house for many years and requested for cancellation of service connection bearing Policy Code. 03-10-06-0745/A2 at No.33, Needarajapayer street, Puducherry, existing in the name of Thiru. Joseph Thiruon, undertaking to pay the charges. Based on the report of the Assistant Engineer, Town I, approval for cancellation of power supply was accorded on 27-10-2015 with instructions to dismantle the service connection materials and devolved property to the stores.

11. I respectfully submit that one, Tmt. Suganthy (6th Respondent), as a tenant, at present in the I Floor of the Residential building, at door No.33, Needarajapaer Street, Puducherry, has applied for a new domestic service connection vide application No.TC-13 on 02.05.2019, justifying that she is living with her family in the said premises and furnished the following documents along with the new service connection application.

(a) Copy of g CGRF order dt.08.02.2018 of Consumer Case No.55/2017.

(b) Copy of Order of I.A.No.1117/2017 in O.S.No.2665/2017 dated 22.02.2019.

(c) Copy of Voter I.D. of Tmt. Suganthy.

(d) Copy of Aadhar Card.

12. I respectfully submit that upon inspection of the building it is noticed that the staircase to the 1st Floor is internally situated and hence there is no proper segregation between the ground and the First floor. It is also ascertained that both the parties are living

separately i.e. Present policy holder is living in ground floor and the applicant in the first floor.

13. I respectfully submit that in the matter of extension of separate power supply to the First floor of the house, the Respondent 5 has assailed the matter before the Union Territory of Puducherry Legal Services Authority 3-10-2017. Similarly, the 5th Respondent has filed a complaint before the Consumer Grievances Redressal Forum, Puducherry in CC No.55/2017 and the Forum by order dated 8-02-2018 has directed the 5th Respondent to comply with the statutory formalities and upon such compliance, the Distribution licensee was required to consider the case of the consumer as per the codal provisions.

In compliance with the directions of CGRG in CC No.55/2017, the application of the 5th Respondent was examined on the spot of her residence and by letter dated 7-12-2017 of the AE (Town-I), Puducherry that the application of 5th Respondent was treated as cancelled, on the grounds that she has not complied with the requirements of the Electricity Department."

6. In the light of the above fact, it is obvious that the petitioner who claims right over the entire property. He has failed to pay the depriving electricity consumption charges leading to the disconnection of the power supply. This has prompted the 6th respondent to seek separate service connection. On obtaining indemnity bond, the electricity board can give service connection to the tenants, who are not in good terms. The same procedure may be followed in the case of the 6th respondent's application also, if the 6th respondent make to provide separate service connection to the portion, which is in his occupation. This facility cannot prejudice the right of the petitioner herein, who is agitating before the Rent Control Tribunal for evicting the 6th respondent from the premises.

7. The writ petition seeking absolute prohibition of providing service connection to the tenant under him is not legally permissible in view of the various other statutes which extends provision of electricity to the occupant of the premises.

8. Hence, this Writ Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ub

To

1.The Secretary,
The Government of Pondicherry,
Electricity Department,
Pondicherry.

2.The superintending Engineer - Circle I,
Electricity Department,
Pondicherry.

3.The Assistant Executive Engineer (Town-1),
Electricity Department,
Pondicherry.

4.The Junior Engineer (Town-Central O & M),
Electricity Department,
Pondicherry.

+1 cc to Mr.S.C.Vishwanth Advocate sr88298

+1 cc to Mr.V.Sivalingam Advocate sr88654

Writ Petition No.14889 of 2019

aa14/11/2019