

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 11.11.2019

Pronounced on: 14.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.23458 of 2018
& W.M.P.No.27372 of 2018

R.Ponni,
W/o.Raman,
Rep. by her Power of Attorney,
Mr.Pakirisamy,
S/o.Pichaimuthu,
Edatheru, Mannarkudi Road,
Thiruthuraipoondi,
Thiruvarur District.

... Petitioner

/versus/

1. The Assistant Engineer,
(Operation and Maintenance),
Tamil Nadu Generation and Distribution Corporation Limited,
Thiruthuraipoondi,
Thiruvarur District.

2. The Commissioner,
Thiruthuraipoondi Municipality,
Thiruthuraipoondi.

3. Tmt.A.Kumutham,
W/o.Elancheran,
Mannai Salai,
Thiruthuraipoondi.

... Respondents

R2 & R3 are impleaded vide order dated 27.04.2019 made in W.M.P.No.29153 of 2019 in W.P.No.23458 of 2018 by TRJ

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified, to call for the records of the respondent letter dated 21.08.2018, Na.Ka.No.Vo.Po/Eya.Pa/Nagar/Thi.Thu.Poo/Koo.objection/ANo.66/2018-2019 and quash the same and to forbear the respondent from erecting any electric pole and laying electric lines in her property of the punjai land measuring to an extend of 0.13/4 cents comprised in survey No.62/18C and Nanjai land measuring to

an extend of 0.05.2/3 cents comprised in Survey No.62/19B and Punjai Land measuring to an extend of 0.09 cents comprised in Survey No.62/20B situated at Mannarkudi Road Thiruthuraipoondi Taluk Thiruvarur District by the consideration of the petitioner's representation dated 28.08.2018.

For Petitioner : Mr.S.Arivazhagan

For R1 : Mr.P.Gunaraj

For R3 : Mr.M.Jaikumar

For R2 : No appearance

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the 1st & 3rd Respondents.

2. The case of the petitioner is that, the 1st respondent is trying to lay electrical pole and draw electricity cable through a lane owned by him, to provide electricity supply for the 2nd respondent building which has no building permission.

3. Accordingly to the petitioner, the property in S.Nos.62/18 C and 62/19B & 62/20B situated at Mannarkudi Road, Thiruthuraipoondi Taluk, Thiruvarur District, is in her peaceful possession and enjoyment. While so, the 2nd respondent filed O.S.No.122/2011 seeking right of easement of way and injection. The District Munsif Court at Thiruthuraipoondi, allowed the suit against which the petitioner has filed appeal before the Sub-Court, Thiruvarur and same is pending as A.S.No.4 of 2018. While so, the 1st respondent wants to lay electrical pole in the disputed land to provide service connection to the 2nd respondent. When same was objected through representation, dated 03.05.2018 through Lawyer, same was rejected by the 1st respondent vide letter dated 21.08.2019. The said letter is challenged in this Writ Petition.

4. The Learned Standing Counsel appearing for the 1st respondent submitted that, the dispute between the petitioner and the 2nd respondent regarding the usage of the land though pending, there is no Court order restraining them to provide service connection to the 2nd respondent. Further, in the impugned order itself the petitioner was informed that they are bound to given service connection to the petitioner in the light of the High Court in W.P.No.12083 of 2013 Dr.Kalavalli Vs. The

Chairman, TNEB, Chennai. Hence, the Writ Petition is liable to be dismissed.

5. The 2nd respondent, in her counter has stated that, the power agent of the petitioner who has filed this Writ Petition on behalf of the Principal is a political heavyweight and trying to grab the common lane by fabricating document. This was subject matter of O.S.No.122 of 2011 and Court has passed decree in favour of the 2nd respondent. While so, in spite of judicial pronouncement and balance of convenience in her favour the petitioner using his political power trying to stale the process of providing service connection to her.

6. The impugned order of the 1st respondent is self explanatory. The following observation of this Court in W.P.No.12083 of 2013 is extracted by the 1st respondent in the impugned order.

"While granting electricity service connection, the electricity department may not be concerned with the suit filed by the respondent claiming the title over the said property". Since no interim injunction has been granted in favour of the respondent, there cannot be any impediment to grant electricity service connection to the petitioner.

If anyone has to wait till the disposal of the suit and further appeal thereon, then the electricity service connection cannot be granted for very number of years"

"In W.A.No.1396 of 2007, dated 15.04.2009 it has been stated that if a lawful occupant is compelled to lead his life in darkness, it would amount to make him lead an animal life, which is not the purport of the constitution."

7. While so, the decision of the 1st respondent to provide electrical supply through the route decided does not suffer any illegality or irregularity.

8. Hence, the order of the 1st respondent, dated 21.08.2018 is upheld. The 1st respondent is directed to proceed to erect pole and provide supply of electricity, within a period of four weeks, from the date of receipt of a copy of this order. It is made clear that this arrangement will be subject to final outcome of the dispute pending between the parties.

Accordingly, the Writ Petition is disposed of. No costs.
Consequently, connected Miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

bsm

To,

1. The Assistant Engineer,
(Operation and Maintenance),
Tamil Nadu Generation and Distribution Corporation Limited,
Thiruthuraipoondi,
Thiruvarur District.
2. The Commissioner,
Thiruthuraipoondi Municipality,
Thiruthuraipoondi.

+1 cc to Mr.S.Arivazhagam Advocate sr94781
+1 cc to Mr.M.Jaikumar Advocate sr94693
+1 cc to Mr.P.Gunaraj Advocate sr94317

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aa11/12/2019