

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.16668 of 2018 and
WMP.Nos.19881 and 19882 of 2018

1. B.Samsath Begum
2. S.Balkees
3. A.Jameela
4. Imdiyas
5. F.Hajira
6. C.Nasima
7. F.Mobina
8. B.Habiya
9. J.Thajun
- 10.S.Surya
- 11.N.Jameelabee
- 12.B.Thameemunisha
- 13.R.Shamsahth
- 14.U.Rasulbeevi

... Petitioners

Vs

1. The Assistant Executive Engineer (NI),
O&M/Siva Kanchi/Tamil Nadu
Generation and Distribution Corporation
(TANGEDCO)/Kanchipuram.
2. Tamil Nadu Generation & Distribution
Corporation rep. by its Chairman,
Anna Salai, Chennai.
3. The Tamil Nadu Wakf Board
rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Valli Seethakathi Nagar,
Chennai-1.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant power connection to the 1st petitioner and all other petitioners properties Plot No.93, 5, 53, 62, 63, 75, 77, 79, 80, 82, 83, 87, 95, 110 at Hameed Avuliya Nagar, Rear Darga (Back Side of Darga), S.N.Vodai Street, Big Kanchipuram-631 502, without insisting upon 'No Objection Certificate' (NOC) of the Wakf Board (3rd respondent).

For Petitioners : Mr.N.Suresh Sah
For Respondents : Mr.S.K.Raameshuwar,
1 and 2 Standing Counsel
For 3rd respondent : Mr.V.Lakshmi Narayanan,
Standing Counsel

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to grant power connection to the petitioners' properties bearing Plot Nos.93, 5, 53, 62, 63, 75, 77, 79, 80, 82, 83, 87, 95, 110 at Hameed Avuliya Nagar, Rear Darga (Back Side of Darga), S.N.Vodai Street, Big Kanchipuram-631 502, without insisting upon 'No Objection Certificate' (NOC) of the Wakf Board (3rd respondent).

2. Learned Counsel appearing for the petitioners submitted that the petitioners are all lawful tenants under the Tamil Nadu Wakf Board/the 3rd respondent herein in respect of the properties bearing Plot Nos.93, 5, 53, 62, 63, 75, 77, 79, 80, 82, 83, 87, 95, 110 at Hameed Avuliya Nagar, Rear Darga (Back Side of Darga), S.N.Vodai Street, Big Kanchipuram-631 502 belong to the Wakf Board. While so, all the petitioners have formed a registered Association registered under the Society Act, 1975 on 10.04.2017 in the name and style of 'Hajarath Ameer Avuliya Bhadrusha Nagar Residents Welfare Society' for their welfare for getting electricity service connection in their plots. Subsequently, when a representation dated 19.02.2018 was made to the 1st respondent, namely, the Assistant Executive Engineer (NI), Operation and Maintenance, Siva Kanchi, Tamil Nadu Generation and Distribution Corporation, Kanchipuram, without asking for 'No Objection Certificate' from the 3rd respondent, namely, the Wakf Board, there is no response for the same. Hence, the petitioners have approached this Court by way of filing the present Writ Petition.

3. The learned Counsel for the petitioners further submitted that in an identical circumstance, by order dated 18.12.2014, this Court while allowing the W.P.Nos.17159 to 17176/2014 directed the Electricity Board to provide electricity connection without insisting the 'No Objection Certificate' from the Wakf Board to the properties of the Writ Petitioners therein. It is also submitted by the learned Counsel for the petitioner that as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, an intending consumer who is not the owner of the premises he occupies, shall produce a consent letter in Form 5 of Annexure III to this code from the

owner of the premises for availing the supply and if the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee as against any loss on account of the disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate. Therefore, the Electricity Department has to consider the case of the petitioners herein also as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004, it is contended.

4. Mr.S.K.Raameshwar, learned Standing Counsel for the respondents 1 and 2 submitted that without submitting any proof for their tenancy under the 3rd respondent and without submitting a 'No Objection Certificate' for providing electricity connection to the petitioners, the respondents 1 and 2 are not in a position to provided electricity connection to them.

5. Mr.V.Lakshmi Narayanan, learned Standing Counsel for the 3rd respondent submitted that the petitioners are not lawful tenants under the Wakf Board as alleged by them. Therefore, when the Wakf Board has not recognized the petitioners as lawful tenants and has not given any 'No Objection Certificate', it is not open to them to come to the Court, seeking electricity connection to their premises by citing the Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004. The learned Standing Counsel further submitted that though it is stated by the petitioners that they are all lawful tenants under the Wakf Board in the premises bearing Plot Nos. 93, 5, 53, 62, 63, 75, 77, 79, 80, 82, 83, 87, 95, 110 at Hameed Avuliya Nagar, Rear Darga (Back Side of Darga), S.N.Vodai Street, Big Kanchipuram-631 502, no document whatsoever has been produced by them showing that the Wakf Board has recognized them as lawful tenants. Consequently, they are all wrongful trespassers, illegally and unlawfully occupying the lands belonging to the Wakf Board.

6. I find full merit in the submissions of the learned Standing Counsel for the 3rd respondent. The reason being that when the petitioners claim that they are all lawful tenants, there is no document whatsoever has been produced to substantiate the same. On the other hand, the statement made by the learned Counsel for the Wakf Board/the 3rd respondent herein that the petitioners are trespassers appears to be correct. Further, as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 only the lawful tenants are entitled for electricity service connection, even if there is any refusal by the landlord to issue the 'No Objection Certificate'. Since in the present case, the petitioners have failed to establish

that they are all lawful tenants under the 3rd respondent Wakf Board, they are not entitled to seek electricity connection to their premises.

7. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Executive Engineer (NI),
O&M/Siva Kanchi/Tamil Nadu
Generation and Distribution Corporation
(TANGEDCO)/Kanchipuram.
2. The Chairman,
Tamil Nadu Generation & Distribution
Corporation,
Anna Salai, Chennai.
3. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Valli Seethakathi Nagar,
Chennai-1.

+2 ccs to M/s.N.Suresh Sah, Advocate, S.R.No.9241
+1 cc to M/s.P.R.Dhilipkumar, Advocate, S.R.No.9526
+1 cc to M/s.V.Raghavachari, Advocate, S.R.No.9274

W.P.No.16668 of 2008

RR(CO)
SSM(26/02/2019)

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