

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34737 of 2014

S.Muthusamy

..Petitioner

-vs-

1. The Executive Engineer (O&M)
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
(TANGEDCO)
Tamil Nadu Electricity Board
Udumalpet Road, Pollachi
Coimbatore District

2. The Assistant Engineer
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
(TANGEDCO)
Tamil Nadu Electricity Board
Palakkad Road, Mannur & Post
Pollachi Taluk, Coimbatore District

3. N.Karthick ..Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to delete the third respondent name and minor Sathya Prasath S/o Nataraj name from S.C.No.194 in S.F.No.148/2C2B and shift the service connection from Open Well to Borewell situated in the very same land at Ramapattinam Village, Hamlet of Thimmankuthu Village, Pollachi Taluk, Coimbatore District.

For Petitioner :: Mr.C.Prakasam

For Respondents :: Mr.S.K.Raameshuwar

Standing Counsel for R1 & 2

Mr.D.Selvaraju for R3

ORDER

Mr.S.Muthusamy, S/o Subbiah has come to this Court seeking issuance of a writ of mandamus under Article 226 of the Constitution of India directing the respondents 1 and 2 to delete the third respondent's name and minor Sathya Prasath S/o Nataraj name from Service Connection No.194 in S.F.No.148/2C2B

and shift the service connection from open well to bore well situated in the very same land at Ramapattinam Village, Hamlet of Thimmankuthu Village, Pollachi Taluk, Coimbatore District.

2. Mr.C.Prakasam, learned counsel for the petitioner contended that the petitioner is a pattadhar of the land situated in S.F.No.148/2C2B at Ramapattinam Village, Pollachi Taluk and after constructing a house, has been residing there. His father, during his lifetime, dug a bore well in the said land for agricultural purpose and also obtained electricity service connection in S.C.No.194 on 11.4.72. It is at this time, the petitioner's father gave his no objection to obtain the electricity service connection in the name of the petitioner. After his demise, the petitioner has been enjoying the said land and the service connection. During the lifetime of his father, his brothers were also using the said open well water for their respective agricultural operations. After sometime, when the well went dry, a representation was made in a format on 15.9.2010 along with the prescribed fee for change over of the service connection from open well to bore well in the S.F.No.148/2C2B. It is also claimed that the land in S.F.No.148/2C2B came to his share and this was not objected to by his brothers. Subsequently, they have sold away their respective shares to Mr.Tiruppur Deivasigamani who also had no objection. After sometime, the said Deivasigamani also sold out the land to one Karthick and one Sathya Prasath represented by his guardian Nataraj, the third respondent herein. But without the petitioner's knowledge, the third respondent approached the respondents 1 & 2 to include his name in S.C.No.194 and without even giving any notice, the respondents 1 & 2 also, for the reasons best known to them, wrongly included the name of the third respondent in S.C.No.194. As the respondents 1 & 2 have included the third respondent's name in S.C.No.194 without conducting an enquiry, the petitioner has been advised to come to this Court for the above relief.

3. A counter affidavit has been filed by the third respondent. Mr.D.Selvaraju, learned counsel for the third respondent submitted that when the petitioner is having two brothers, the third respondent had purchased the shares belonging to his two brothers in respect of the land covered in S.F.No.148/2C2B, as a result the third respondent is having 2/3rd share in the service connection, therefore, the petitioner is entitled to only 1/3rd right over the service connection.

4. It is at this stage, the learned counsel for the petitioner filed a memo dated 30.9.2019 undertaking to accept his rights over the well and draw water by using the electricity

service connection in S.C.No.194 by 1/3rd share, namely, one day in six days and the petitioner is also having 1/6th share in the well situated in S.F.No.148/2C2B, Ramapattinam Village, Hamlet of Thimmankuthu Village, Pollachi Taluk and he has also admitted that the third respondent is having right over 2/3rd share in the S.C.No.194 and 2/6th share in the open well.

5. This Court, recording the above undertaking, hereby directs both the petitioner and the third respondent to share the water as agreed to between them. Needless to state that the inclusion of the third respondent's name in the S.C.No.194 by the respondents 1 & 2 is also in order. Accordingly, the writ petition stands disposed of in terms of the aforesaid undertaking. Consequently, M.P.No.1 of 2015 stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Executive Engineer (O & M), Tamil Nadu Generation and Electricity Distribution Corporation Ltd., (TANGEDCO)
Tamil Nadu Electricity Board, Udumalpet Road, Pollachi
Coimbatore District

2. The Assistant Engineer, Tamil Nadu Generation and Electricity Distribution Corporation Ltd., (TANGEDCO)
Tamil Nadu Electricity Board, Palakkad Road, Mannur & Post
Pollachi Taluk, Coimbatore District

+1 cc to M/s.C.Prakasam, Advocate Sr.No. 84795

+1 cc to M/s.D.Selvaraju, Advocate Sr.No. 84360

AKM/08.11.19/3P-5C /

W.P.No.34737 of 2014

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