

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.09.2019
CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WRIT PETITION NO.21096 OF 2019

S.Radha

.. Petitioner

/versus/

1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Limited(TANGEDCO),
Chennai.
2. The Superintendent Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited(TANGEDCO),
Coimbatore Electricity Distribution Division,
Tatabad, Coimbatore 12.
3. The Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution Division,
Coimbatore.
4. The Executive Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution Division/City,
Kadaiveethi/East, Coimbatore.
5. Mrs.S.Kalavathi
6. A.Srinivasan

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 to provide new electricity connection to the commercial building situated at Door No.272-275 Raja Street, Coimbatore.

For Petitioner :Mr.K.Bijai Sundar

For Respondents :Mr.S.K.Rameshwar, st.c
for R1 to R4
No appearance for R5 and R6

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing respondents 1 to 4 to provide new electricity connection to the commercial building situated at Door No.272-275 Raja Street, Coimbatore.

2. Heard learned counsel appearing for the petitioner and learned standing counsel appearing for respondents 1 to 4.

3. Respondents 5 and 6 though entered appearance through counsel, no counter is filed.

4. The case of the petitioner is that she is a tenant under the 5th respondent. During the month of November 2012, the fifth respondent/landlord temporarily disconnected the electricity service connection to the premises tenanted to the petitioner under assurance that after demolition and reconstruction of the rear portion, he will restore the service connection, but after reconstruction of the rear portion, he did not restore the service connection. In this regard, the husband of the petitioner filed O.S.No.2871 of 2012 before the Principal District Munsif Court, Coimbatore but, pending the suit, her husband died and the petitioner unaware of the pendency of the suit filed by her husband did not pursue the suit. Hence, the said suit was dismissed for default.

5. Then, the petitioner filed R.C.O.P.No.147 of 2013 before the Rent Controller, Coimbatore for deposit of rent. Pursuant to the order passed by the Court, she is regularly depositing the monthly rent in the RCOP account and the landlord/5th respondent withdrawing the same.

6. In such circumstances, the petitioner earlier filed W.P.No.24495 of 2018 seeking the relief of temporary electricity connection to the premises. However, the said writ petition was dismissed, after considering the counter filed by the respondents.

7. The reason for dismissal of the writ petition is as below:

"No proof has been produced before this Court to establish that there was a reconstruction made after the demolition of commercial building in question and even if it is so, the petitioner has to workout her remedy in the pending civil suit filed by her as stated above. Further the petitioner has not produced any document to show that after the reconstruction of the building in

question, she will be provided with an alternative accommodation for running her business. Thus, without any of those above materials, the prayer of the petitioner seeking to effect the electricity service connection in the commercial building in question cannot be entertained by this Court."

8. The learned counsel appearing for the petitioner would submit the petitioner came to know about the suit only through the counter filed in the writ petition. On enquiry, she came to know after the demise of her husband that O.S.No.2871 of 2012 was dismissed for default on 10.07.2018 and there is no suit pending as of now. Whereas to prove that the petitioner is in occupation of the building owned by respondents 5 and 6, the Rent Control Proceedings in R.C.O.P.No.147 of 2013 is sufficient, the 6th respondent cannot object the petitioner getting the basic amenities.

9. In the counter filed by respondents 1 to 4/TANGEDCO, it is stated that the petitioner cannot seek for reconnection of service disconnected more than five years ago, in view of Clause 22(6)(i) of the Tamil Nadu Electricity Supply Code, 2004, which entitles a consumer to get reconnection within two years from the date of disconnection. Further, the petitioner has sought for temporary electrical supply without applying in the prescribed form and without giving necessary documents to prove her lawful occupation.

10. It is also stated in the counter that in the event if the petitioner apply for the electrical supply at appropriate tariff in the prescribed form with documents supporting the lawful occupation, it will be considered in accordance with the provisions of the Electricity Act, 2003 read with provisions of Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004.

11. In view of the averments made in the counter affidavit filed by respondents 1 to 4/TANGEDCO, the writ petition is disposed of with the following directions:

(a) The petitioner herein shall apply for service connection in the prescribed format with all necessary documents supporting her lawful occupation;

(b) The TANGEDCO/respondents 1 to 4

shall take note of the pendency of the R.C.O.P.No.147 of 2013 and the application of the landlord filed for withdrawal of the rent as lawful possession; and

(c)The TANGEDCO shall if satisfied, obtain necessary undertaking as per Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 and consider the said application in accordance with law.

No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

1. The Chairman, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), Chennai.
2. The Superintendent Engineer, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), Coimbatore Electricity Distribution Division, Tatabad, Coimbatore 12.
3. The Executive Engineer, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), Coimbatore Electricity Distribution Division, Coimbatore.
4. The Executive Engineer, Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), Coimbatore Electricity Distribution Division/City, Kadaiveethi/East, Coimbatore.

+1cc to Mr.K.Bijai Sundar, Advocate, S.R.No.78791

+1cc to Mr.N.Elayaraja, Advocate, S.R.No.79438

W.P.No.21096 of 2019

GMR (CO)
CS/18/09/2019