

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.25276 of 2019
and W.M.P.No.24850 of 2019

P.Sathasivam

... Petitioner

Versus

1.The Assistant Engineer,
Operation & Maintenance,
TANGEDCO, Rural South Section,
Anna Nagar, Namakkal Dt.

2.The Assistant Executive Engineer,
Operation & Maintenance,
TANGEDCO, Erumaipatti Post,
Namakkal Dt.

3.The Executive Engineer,
Operation & Maintenance,
TANGEDCO, Namakkal.

4.N.Imayavaramban

5.P.Chinnakannu

6.K.Chinnusamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorarified Mandamus, calling for the records relating on the file of respondents 2 and 3 respectively in respect of issue of Lr.No.AEE/O&M/E.Patti/Ko.AGL/No.344/2019 dated 14.02.2019 by the 2nd respondent and to the issue of Lr.No.EE/O&M/Naa/Va.Aaa/Ka.Me.Paa.Po.Ku.thee.Petition/NO.146/2019 dated 29.06.2019 by the 3rd respondent and quash the same and consequently to direct the respondents 1 to 3 to provide service connection to the petitioner for his well situated in survey no.64/12, Perumapatty Village, Senthamangalam Taluk, Namakkal Dt; to pay the petitioner a penalty of Rs.1000/- per day from 30.10.2010 till the date of service connection to the said well that may be effected hereafter and to make criminal complaint

against the private respondents for preventing the respondents 1 to 3 from carrying out their official duties.

For Petitioner : Mr.N.Subramaniyan

For R1 to R3 : Mr.S.K.Rameshuwar
Standing Counsel

O R D E R

The petitioner herein seeks electricity connection for Survey No.64/12, to draw water from his well. In the year, he has applied for service connection for two wells one in Survey Nos.64/12, which he own exclusively and another in 64/13B in which he has $\frac{1}{4}$ share. In the year 2010, on seniority his application materialised and the Electricity Department has permitted him to prepare joint assessment for both the wells. Later, there was some objection by the co-owners of the land at Survey No.64/13B and the well in which, the petitioner and the objector had joint ownership. So, the petitioner has sought for electricity connection at least to the well at Survey No.64/12 in which he has exclusive right. On doing field visit, the Executive Engineer has found that as per the VAO certificate, the portion shown as vari/odai even for that the respondents 4 to 6 objected for drawing electrical line over their land, so the petitioner suggested to draw the line along the common pathway vari/odai which is mentioned in the partition deed. Through which electrical line is not found in FMB sketch. Therefore sought for production of FMB sketch this according to the petitioner is contrary to law and such refusal is only to favour the objectors respondents 4 to 6.

2. The Executive Engineer vide communication dated 29.06.2019, has informed the petitioner that, to produce necessary document with FMB sketch to show the ownership of the petitioner and the water canal through which electrical line to be drawn, so as to proceed with his application. The petitioner herein aggrieved by the same and has filed the present writ petition. On the ground that, the records called for herein is not necessary and even there is any objector, should have erected electric pole in his land situated in the other survey numbers and drawn line through the lands of the objectors and should have given service connection.

3. Under Electricity Act 2003, the respondents ought to give electricity service connection on demand, within a month failing which, the official respondents are liable to pay a sum of Rs.1,000/- per day. In spite of the said specific statutory mandate, the officials have refused to give service.

4. In this connection, the learned counsel would rely on a judgment of this Court passed in W.P.No.18868 of 2013 dated 09.10.2013 wherein, this Court has reiterated the provisions of the Electricity Act and the duty upon the Electricity Board Authorities to provide electricity services, on demand. In this case, the respondents have not refused to give service connection to the petitioner, admittedly a suit in O.S.No.217 of 2017 is pending between the petitioner and the respondents 4 to 6. For the alternate route the VAO has stated that the line can be passed through pathway and water canal. For which the respondents have requested the petitioner to provide details about the pathway and water canal in the FMB sketch through which the line supposed to be drawn.

5. The petitioner counsel states that the common pathway and canal is mentioned in the partition deed area exist on the field but not mentioned in FMB sketch. So, the FMB sketch will not reflect the existence of pathway or canal.

6. This Court finds nothing improper or ulterior intention on the part of Executive Engineer / third respondent seeking details from the petitioner regarding the nature of land through which the line is supposed to be drawn. If the petitioner is able to provide the required informations either through FMB sketch or through the partition deed and VAO certificate then the respondents are bound to give service connection. Without furnishing the required information, the petitioner cannot seek Writ of Certiorarified Mandamus complaining to this Court that the respondents failed to give him service connection without exploring the feasibility.

7. Hence, the writ petition is disposed with liberty to the petitioner herein to provide the FMB sketch, partition deed and VAO certificate of the area through which the line is proposed to be drawn. On such production, the respondents shall cause field visit and consider the application of the petitioner and pass appropriate order in accordance with law within 8 weeks. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

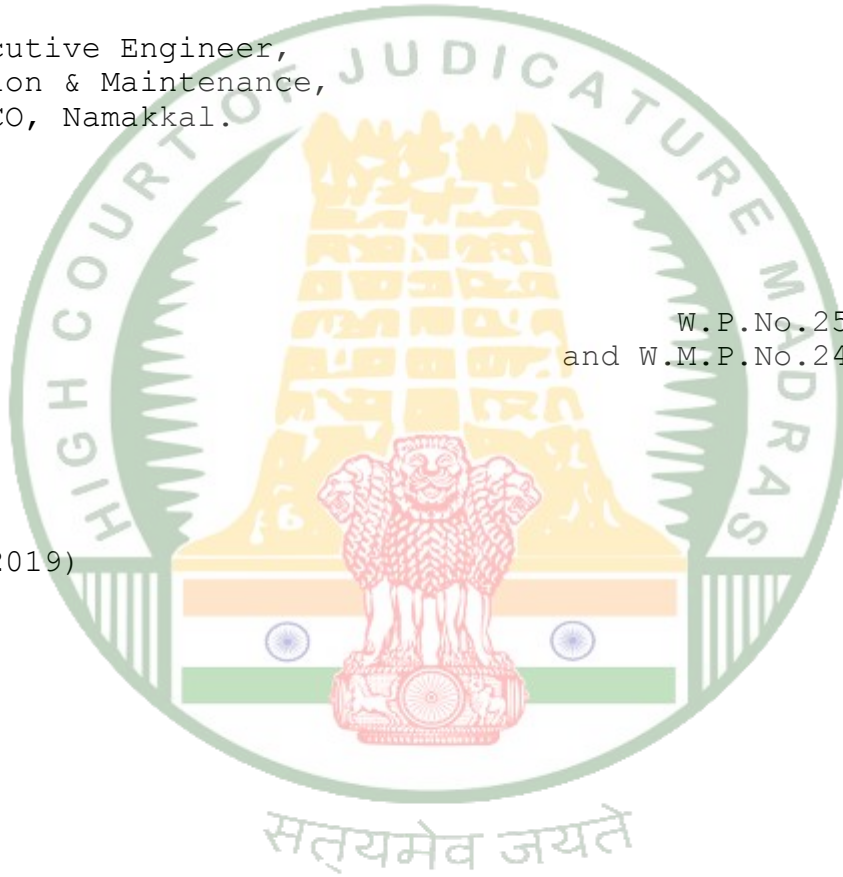
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To

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MG (CO)
SP (24/10/2019)



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