

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4616 of 2017

P.Prakasam

...Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Mettur Electricity Distribution Circle,
Mettur Dam - 636 401.

2.The Executive Engineer,
Operation & Maintenance,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Edappadi, Salem District.

3.The Assistant Engineer,
Operation & Maintenance,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Poolampatty, Edappadi Taluk,
Salem District.

4.S.Muniappan

... Respondents

(R4 impleaded as per order dated 11.04.2017
in W.M.P.No.9215/2017 in W.P.No.4616/2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to grant Electric Service Connection for 7.5 H.P. motor pump set to the petitioner for drawing water for the purpose of irrigation from the open Well in Survey No.17/2A situated at Vellirivelli Village, Edappadi Taluk, Salem District in pursuance to the application No.306/2008-2009 registered on 13.11.2008 on the file of the third respondent.

For Petitioner : M/s.M.Sudha

For Respondents: Mr.N.Damodharan (For R1 to R3)
Mr.N.S.Suganthan (For R4)

O R D E R

Heard M/s.M.Sudha, learned counsel for the petitioner, Mr.N.Damodharan, learned counsel for the respondents 1 to 3 and Mr.N.S.Suganthan, learned counsel for the 4th respondent.

2.The petitioner, who is the third party purchaser of the property in question, seeks for a separate electricity connection for agricultural purpose from the well stated to be situated in the property purchased by him. The application was not considered by the third respondent who has filed counter affidavit stating that unless and until all the co-owners of the property make a joint application in Form- 2 as per Clause 27(2) of the TNERC Electricity Distribution Code, individual application cannot be entertained. It is seen that the 4th respondent has filed a suit for partition in O.S.No.115 of 2013 on the file of the Sub Court, Sankari in which the total extent of the property is described as Plaint Schedule Property including the existing six wells, motor pump sets, superstructure standing thereon, etc. In the said suit, the petitioner is the 39th defendant who has stated to have purchased the property from the 31st defendant, namely, one Manickam. When the suit is pending and the other co-owners have not given consent, the question of issuing a direction to the respondent Electricity Board to grant agricultural electricity service connection, that too, under the self financing scheme does not arise.

3.The learned counsel for the petitioner has referred to a No Objection Letter stated to have been signed by the co-owners.

4.We find that the signature of the three persons and the thumb impression of one person is found. Admittedly, there are 39 defendants in the suit and the petitioner being one of the defendant has to agitate his rights before the Civil Court. Admittedly the petitioner has purchased the undivided share from one of the co-parcener to the property and the petitioner's vendor is also a defendant in the suit. Therefore, at this juncture, the question of issuance of Writ of Mandamus as sought for by the petitioner cannot be entertained. Accordingly, the writ petition is dismissed. However, the dismissal of the writ petition will no manner prejudice the petitioner's rights in the civil suit and it is open to the petitioner to raise all

defences available to him on fact and law before the Civil Court. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

cse
To

- 1.The Superintending Engineer,
Tamil Nadu Generation and Distribution
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Mettur Dam - 636 401.
- 2.The Executive Engineer,
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Tamil Nadu Generation and Distribution
Corporation Ltd.,
Edappadi, Salem District.
- 3.The Assistant Engineer,
Operation & Maintenance,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Poolampatty, Edappadi Taluk,
Salem District.

+1cc to Mr.R.Arundattan, Advocate SR.100665/19
+1cc to Mr.N.Manokaran, Advocate SR.100532/19
+1cc to Mr.N.Damodaran, Advocate SR.100822/19

W.P.No.4616 of 2017

AK(CO)
CB(08/01/2020)

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