

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.18233 of 2017

and

WMP.No.19819 of 2017

C.Ravikumar

...Petitioner

vs.

1.The Chairman
Tamil Nadu Generation & Distribution Corporation
No.144, Anna Salai
Chennai-600 002.

2.The Assistant Engineer
Coimbatore Electricity Distribution Circle
TANGEDCO, Samalapuram - 641 668
Palladam Taluk
Tiruppur District.

3.P.Loganathan

4.P.Rathinasamy

5.Geetha

6.Revathi

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the first respondent from effecting electricity service connection to the respondents 3 to 6 in respect of illegally constructed building situated in S.No.693 of Samalapuram Village, Sular SRO, Palladam Taluk, Tiruppur District.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.S.K.Rameshwar
standing counsel for R1 & R2

Mr.C.Prakasam
for R3 to R6

O R D E R

The present writ petition is filed seeking for mandamus forbearing the first respondent from effecting electricity service connection to the respondents 3 to 6 in respect of the building situated in S.No.693 of Samalapuram Village, Sulur SRO, Palladam Taluk, Tiruppur District.

2. Heard Mr.S.Doraisamy, learned counsel for the petitioner, Mr.S.K.Rameshwar, learned standing counsel for the respondents 1 & 2 and Mr.C.Prakasam, learned counsel for the respondents 3 to 6.

3. It is seen that a civil dispute between the contesting parties viz., the petitioner and the respondents 3 to 6, is pending before the District Munsif Court, Palladam in OS.No.115 of 2016. It is further seen that the said suit was filed by the petitioner herein seeking for relief of permanent injunction restraining the defendants, therein in any manner disturbing the peaceful possession and enjoyment of the B Schedule suit property and for permanent injunction restraining the defendants therein from altering or putting up any type of construction in the B schedule suit property. The respondents 3 to 6 herein are the defendants 1 to 4 therein. It is seen that the Civil Court during pendency of the suit, has also granted an interim injunction in I.A.No.344 of 2016, restraining the defendants from putting up any construction over the B schedule suit property. It is stated that the said suit with interim injunction is still pending. Now, the grievance of the petitioner before this Court is that despite pendency of the suit and the interim injunction granted therein, as stated supra, the respondents 3 to 6 herein are trying to get electricity service connection from the respondents 1 & 2 to their building constructed illegally in the B schedule suit property, that too, when such construction was made against the interim order granted by the Civil Court.

4. On the other hand, it is contended by the learned counsel for the respondents 3 to 6 that the said construction was made already even before granting an interim order by the Civil Court. Therefore, he submitted that there cannot be any impediment for the Electricity Board to effect service connection to the subject matter property.

5. When it is an admitted fact that the civil suit is pending between the parties as stated supra and that the Civil Court has already granted an interim injunction, it is not for this Court to issue any direction or order as sought for by the respondents 3 to 6 for effecting service connection, since it is for them to work out their remedy before the Civil Court by

filing appropriate application. Without doing so, the learned counsel for the respondents 3 to 6 is not entitled to contend before this Court that the petitioner should not prevent the Electricity Department from effecting service connection. So long as the interim order granted by the Civil Court, as stated supra, is in force, this Court is of the view that the hands of the respondents 1 & 2 are tied and therefore, it is for the respondents 3 to 6 to work out their remedy before the Civil Court.

6. Accordingly, this writ petition is disposed of, by directing the respondents 3 to 6 to work out their remedy before the Civil Court. Till an order is passed by the Civil Court in respect of claim of the respondents 3 to 6 for service connection, the respondents 1 & 2 shall not effect the service connection to the building put up by the respondents 3 to 6 in the property situated at S.No.693 of Samalapuram Village, Sular SRO, Palladam Taluk, Tiruppur District.

7. In view of the facts and circumstances as discussed supra, this Court is of the view that the Civil Court can take up the Civil Suit and dispose of the same on merits and in accordance with law, without loss of further time, since it is a simple suit for Bare Injunction. Accordingly, the District Munsif, District Munsif Court, Palladam, is directed to dispose of the suit filed by the petitioner in O.S.No.115 of 2016 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif
The District Munsif Court
Palladam.

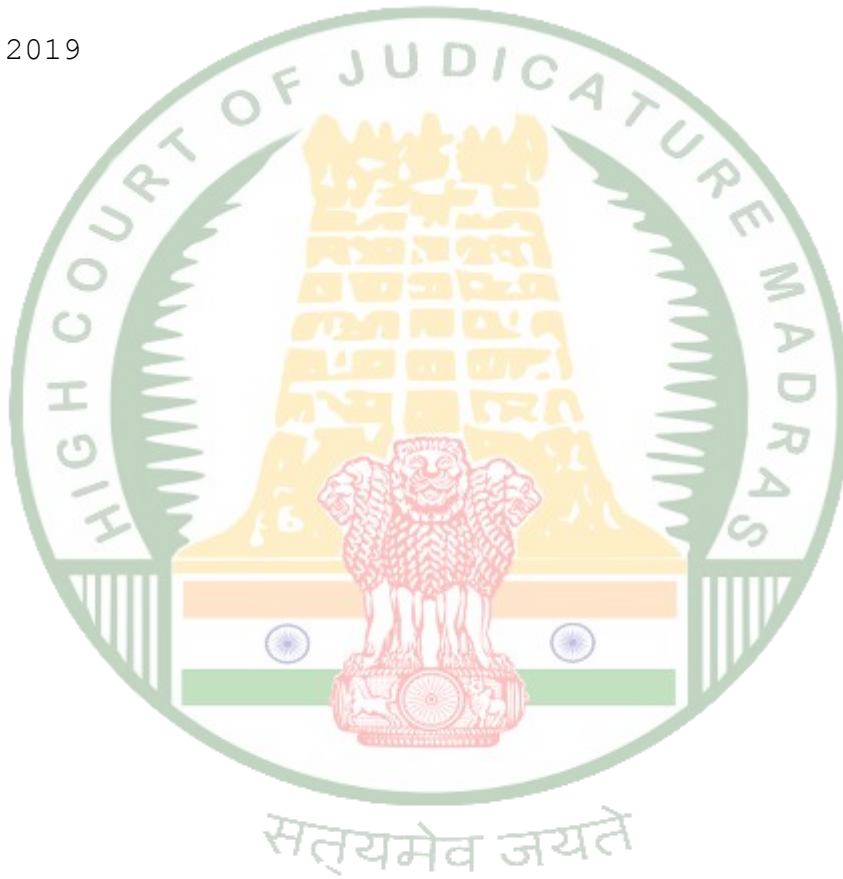
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+1 cc to M/s.S.Doraisamy, Advocate SR.No.2842
+1 cc to Mr.C.Prakasam, Advocate SR.No.2645

WP No.18233 of 2017

KJ(CO)
CSL/01.02.2019



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