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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.12.2019

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

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THE HON'BLE MS.JUSTICE P.T.ASHA

W.A.No.4340 of 2019 and

C.M.P.No.27935 of 2019

R.Ponni

... Appellant/Petitioner

-vs-

1. The Assistant Engineer,
(Operation and Maintenance),
Tamilnadu Generation and Distribution Corporation Ltd.,
Thiruthuraipoondi, Thiruvarur District.

2. The Commissioner,
Thiruthuraipoondi Municipality,
Thiruthuraipoondi.

3. Tmt.A.Kumutham

... Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to allow the Writ Appeal and set aside the order passed in W.P.23458 of 2018 on 14.11.2019.

Prayer in W.P.23458 of 2018 : Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified, to call for the records of the respondent letter dated 21.08.2018, Na.Ka.No.Vo.Po/Eya.Pa/Nagar/Thi.Thu.Poo/Koo.objection/ ANo.66/2018-2019 and quash the same and to forbear the respondent from erecting any electric pole and laying electric lines in her property of the punjai land measuring to an extent of 0.13/4 cents comprised in survey No.62/18C and Nanjai land measuring to an extent of 0.05.2/3 cents comprised in Survey No.62/19B and Punjai Land measuring to an extent of 0.09 cents comprised in Survey No.62/20B situated at Mannarkudi Road Thiruthuraipoondi Taluk Thiruvarur District by the consideration of the petitioner's representation dated 28.08.2018.



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For Petitioner : Mr.V.Subramanian
For Mr.P.Balamurugan
For R1 : Mr.P.Gunaraj
For R2 : Mr.P.S.Shivashanmuga Sundaram
Spl. Govt. Pleader

J U D G M E N T

S.VAIDYANATHAN, J.,
AND
P.T.ASHA, J.,

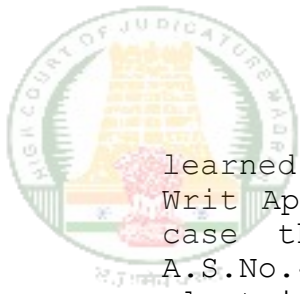
The Appellant seeks to set aside the order dated 14.11.2019 passed in W.P.23458 of 2018, by which, this Court, while upholding the order of the 1st respondent, had directed the 1st Respondent to proceed to erect pole for the purpose of supply of electricity connection within four weeks. In the order, it was also observed that the order passed would be subject to the final outcome of the dispute pending between the parties.

2. Heard the learned counsel for the Appellant, the learned Standing Counsel for R1 and the learned Special Government Pleader for R2. Notice to the 3rd respondent is dispensed with, as no adverse order is going to be passed against her. By consent of the parties, the main Writ Appeal is taken up for hearing and disposal even at the admission stage itself.

3. Learned counsel for the Appellant has submitted that despite the pendency of A.S.No.4 of 2018 before the Sub Court, Thiruvavur, the learned Single Judge had approved the action of the 1st respondent, by granting permission to them to erect pole and electricity connection, which warrants interference by this Court.

4. It is not known as to whether any stay has been granted in the Appeal Suit and mere pendency of an appeal without stay cannot be cited as a ground to interfere with the order of the learned Single Judge. Moreover, a reading of the order of the learned Single Judge discloses the fact that the earlier order dated 15.04.2009 passed by this Court in W.A.No.1396 of 2007 has been referred to in the order, holding that if a lawful occupant is compelled to lead his life in darkness, it would amount to make him lead an animal life, which is not the purport of the constitution. In fact, the learned Single Judge, while disposing of the Writ Petition, had protected the interest of both parties.

5. In the result, finding no error or illegality on the face of the order, we are of the view that there is no ground made out to set aside the order dated 14.11.2019 passed by the



learned Single Judge in W.P.No.23458 of 2018. Accordingly, the Writ Appeal stands dismissed. However, it is made clear that in case the Appellant herein succeeds in the Appeal Suit in A.S.No.4 of 2018 pending before the Sub Court, Thiruvarur, the electricity service connection shall be disconnected with immediate effect and the entire costs of removal shall be borne by the party, who sought for such electricity connection. It is needless to state here that it is open to the respective parties to raise all the grounds available to them before the Sub Court, Thiruvarur, while advancing their argument in A.S.No.4 of 2018. No costs. Consequently, connected miscellaneous petitions is also closed.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To:

1. The Assistant Engineer,
(Operation and Maintenance),
Tamilnadu Generation and Distribution Corporation Ltd.,
Thiruthuraipoondi, Thiruvarur District.
2. The Commissioner,
Thiruthuraipoondi Municipality,
Thiruthuraipoondi.

W.A.No.4340 of 2019

CP(CO)
CSR:10.01.2020