

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :21.01.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27200 of 2018

and

W.M.P.No.31629 of 2018

V.K.Tamilmani

..Petitioner

vs

1.Assistant Engineer,
TNEB,
O&M/Rural/South
Alagesan Nagar, Urban South,
Chengalpattu, Kancheepuram District.

2.The Executive Engineer,
Tamil Nadu Electricity Board
Alagesan Nagar, Urban South
Chengalpattu, Kancheepuram District.

3.The Junior Engineer,
Tamil Nadu Electricity Board
Alagesan Nagar, Urban South
Chengalpattu, Kancheepuram District.

4.The Superintendent Engineer
Tamil Nadu Electricity Board
Alagesan Nagar, Urban South
Chengalpattu, Kancheepuram District.

5.The Chief Vigilance Officer(ADGP)
Tamil Nadu Electricity Board
Annasalai, Chennai - 600 002.

6.V.G.Thirumalai Naicker

7.The Thasildar,
Chengalpattu

(R7-Suo Motu impleaded as one of the party respondent
in W.P.No.27200/2018 & W.M.P.No.31629 & 35341/2018)

..Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorarified
Mandamus, to call for the records leading to the impugned order

dated 09.10.2018 issued by the 1st Respondent and quash the same and consequently directing the Respondents to restrain from terminating my electricity supply in the land measuring 2.22 Acre, comprised in Survey No.74/1, Vetha Narayanapuram Village, Malayadi Vembakkam(Via) Chengalpattu Taluk - 603 001, Kancheepuram District.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.S.K.Raameshwar, for R1 to R5

Mr.Babu Muthu Meenan
for Mr.L.Chandrakumar for R6

M/s.R.Janaki,
Additional Government Pleader
for R7

O R D E R

The impugned order dated 09.10.2018 issued by the Assistant Engineer, Tamil Nadu Electricity Board, stating that the requisite documents has not been produced for the purpose of establishing the ownership. Thus, the electricity service connection provided in the premises in question will be disconnected. The writ petitioner was directed by the respondents to furnish the requisite documents for the purpose of the continuance of the electricity service connection in the premises.

2.The learned counsel for the writ petitioner states that the writ petitioner is the owner of the property described in the present writ petition and the property was originally owned by his father. His father was doing agricultural activities in the said land and they are in continuous possession and enjoyment for the past many decades.

3.Admittedly, now the Civil disputes are also pending between the parties before the competent Civil Court.

4.The learned counsel appearing on behalf of the 6th respondent disputed the contentions raised by the petitioner by stating that the petitioner is a land grabber and he has created certain Bogus documents and in illegal occupation of the land described in the present writ petition.

5.The writ petitioner has impersonated his father's name as Siva prakasam and in this regard, the 6th respondent filed a Police complaint and the Criminal Trial is pending.

6.The learned counsel for the 6th respondent solicited the attention of this Court in respect of the orders passed in Criminal O.P.No.13607/2015 dated 03.07.2015. The writ petitioner along with three others filed the said Criminal O.P.No.13607/2015 for quashing of the charge sheet filed in C.C.No.38/15 on the file of the Judicial Magistrate II, Chengalpattu. This Hon'ble Court in paragraph 8 made a findings as under:-

"8.This Court is unable to countenance the aforesaid arguments because, the issues in the suit are materially different from the allegations in the Final Report. The allegation in the Final Report is that Kathirvel has impersonated Sivaprakasam who his the original owner of the property and has executed a Settlement Deed in favour of his sons A2 to A4, as if the land belongs to him. Police investigation reveals that Kathirvel is a dalit and the original owner Sivaprakasam is a non-dalit. The father of the original owner Sivaprakasam is one Radhakrishnan @ Raji and Kathirvelu[A1], styling himself as Kathirvel @ Sivaprakasam, s/o.Muthan @ Raju has executed the impugned settlement deed in favour of his son. Kathirvel's father's name is Muthan to which he has added suffix, @ Raji to make the world to believe that he is Sivaprakasam. Thus, there are sufficient materials on record for the trial to proceed."

7.Relying on the said observations made by this Court, the learned counsel for the 6th respondent states that the impersonation made by the writ petitioner has been well established before the Courts and the Trial is pending. This Court is of an opinion that all such disputed facts and circumstances deserves no further adjudication as far as the present writ petition is concerned. The present writ petition is filed challenging the order passed by the Assistant Commissioner, Tamil Nadu Electricity Board to the writ petitioner to produce the requisite documents for the purpose of continuance of the electricity service connection in the premises disconnected in the present writ petition.

8.The learned counsel for the petitioner states that the writ petitioner is the owner of the premises and the property originally belonged to his father and the petitioner is ready to establish his title before the competent Civil Court and therefore, the impugned order passed is liable to be scrapped.

9.In order to find out the nature of the classification of the land in question, the Tahsildar, Chengalpattu was impleaded as a party respondent in the present writ petition. The

Tahsildar, Chengalpattu provided an instruction, stating as follows:-

"I submit that the land involved in this case in S.No.74/1, at Vedhanarayanapuram Village in Chengalpattu Taluk, Kancheepuram District is still stands in the Revenue Records as follows:-

1) Survey no. :74/1, Extent:0.90.0 acres, Classification : Punjai land

2) Patta No. : 722, in the name of Thiru.V.G.Thirumalai s/o Govindasamy.

3) As per the U.D.R. "A" Register, the said land was stands in the name of R.Sivapragasam, in Patta No.70, in S.No.74/1, an extent of 0.90.0 ares, classified as Punja land.

The four boundaries of the land are:-
In the North :G.S.T.Road, West:Vacant lands, South and East :Mango Thoppu.

At the time of personal inspection of the said land, it reveals, that one Thiru.Kathivel @ Sivapragasam, occupied this land by way construction of two huts, in each one cents, and a cement sheet terraced house in three cent, and the remaining lands was cultivation of Cabage, chilly, and urid dhall, plants. Further, I submit that the relevant revenue records as Patta, U.D.R. A Register, and adangal copied are enclosed herewith for kind of perusal."

10.As per the instructions provided by the Tahsildar, Patta No.722, stands in the name of Thiru.V.G.Thirumalai s/o Govindasamy. As per the U.D.R. "A" Register, the said land was stands in the name of R.Sivapragasam, in Patta No.70, in S.No.74/1, an extent of 0.90.0 ares, classified as Punja land. There is a discrepancy in respect of the revenue records. Patta No.722, stands in the name of Thiru.V.G.Thirumalai s/o Govindasamy. However, there is a variation in respect of the U.D.R. A Registrerr. However, all these issues are to be adjudicated by producing the original documents and by adducing evidences before the competent Civil Court of law and if there is any impersonation of the name of the father in the document, the same also is to be adjudicated before the competent Criminal Court of Law, wherein the Trial is pending.

11.However, the fact remains that the writ petitioner has not produced the requisite documents to establish his ownership and all the documents now said to have been produced by the writ petitioner are disputed as fraudulent one and the same are under adjudication both before the Criminal Court of law as well as before the Competent Civil Court of law. When the very existence and the execution of documents is questioned as bogus and the quash petition filed before this Court was also dismissed and

the competent Criminal Court of law is proceeding with the Trial in the matter, this Court is of an opinion that no further consideration is required in respect of the merits raised in the present writ petition by the writ petitioner. It is left open to the writ petitioner to establish his title before the competent Civil Court of law and further, disprove the allegations of offence under the Indian Penal Code before the Criminal Court of law by producing the documents and by adducing evidences. The said exercise is to be done by the competent Court and only after the conclusion of the Civil litigations as well as the Criminal case, the Electricity Board authorities would be in a position to consider the case of the writ petitioner or the 6th respondent for the purpose of effecting Trial.

12.This apart, the 6th respondent earlier filed writ petition in W.P.No.19868/2018, impleading the petitioner also. This Court passed an order on 02.08.2018 as follows:

"6.Considering the limited prayer, this Court directs the 2nd respondent to consider the representation of the petitioner dated 21.07.2018, after issuing notice to the 5th respondent, on the basis of the order dated 03.07.2015 made in Crl.O.P.No.13607 of 2015 and order dated 21.06.2018 made in Crl.O.P.No.951 of 2018, wherein a prima facie conclusion has been reached that the property in question originally belongs to Nindumathy and that Kathirvel and his sons created fabricated document to take possession. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

7.With the above direction, the writ petition is disposed of. No costs."

13.Pursuant to the said directions only, the Electricity Board authorities issued the notice, directing the writ petitioner to submit the requisite the documents for the purpose of continuance of electricity service connection in the premises.

14.This being the factum of the case, the writ petitioner has to establish his title, ownership before the competent Civil Court and disprove the allegations of impersonation before the competent Criminal Court of law and as well as produce all the requisite documents to the Electricity Board authorities for the purpose of continuance of the Electricity service connection. At present, the writ petitioner has not produced any such documents and all such disputed documents are now pending before the competent Courts.

15.Thus, this Court is of an opinion that the impugned order is not infirm and the Electricity Board authorities are bound to proceed with the impugned order in the manner known to law.

16.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

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7.The Thasildar,
Chengalpattu

+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No.4370

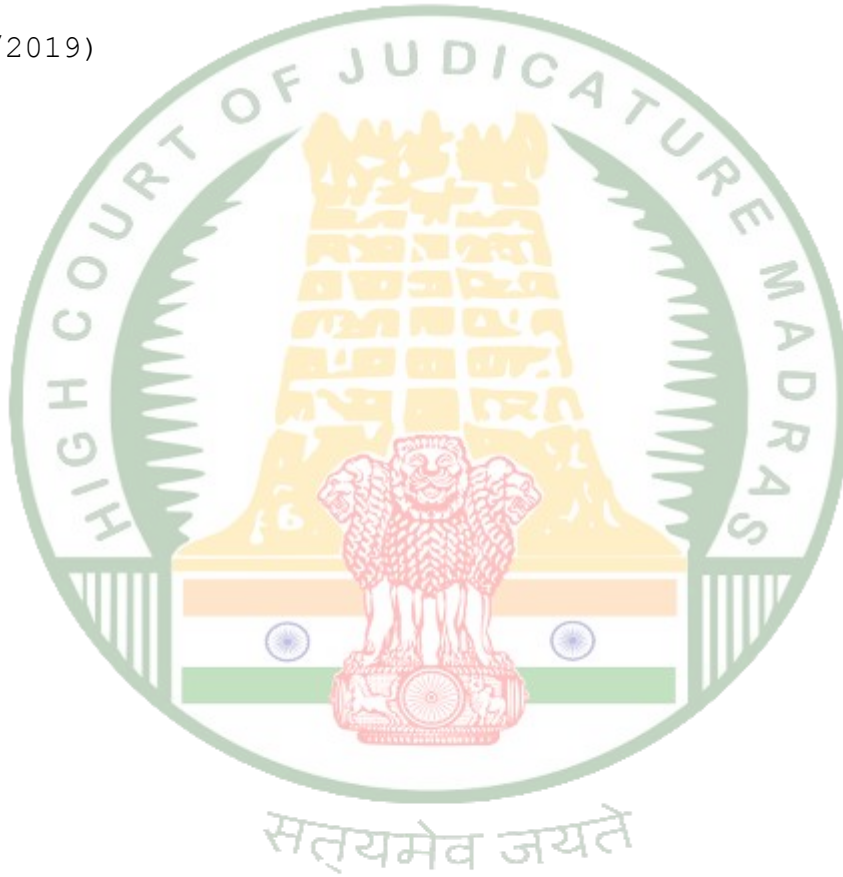
+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No.4041

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.4777

+1cc to the Government Pleader, S.R.No.5087 & 4552

W.P.No.27200 of 2018

KS (CO)
GSP (06/02/2019)



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