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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.A. (MD) No.347 of 2019
and C.M.P. (MD) No.2889 of 2019
against
WP (MD) 25561 of 2018

K.Ammakkannu

... Appellant/3rd Respondent

Vs.

1.Udayathevan

... 1st Respondent/Petitioner

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Sivagangai,
Sivagangai District.

3.The Assistant Engineer,
Tamil Nadu Electricity Board
Maravamangalam,
Sivagangai District.

... Respondents 2 & 3/

Respondents 1 & 2

Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court in W.P.(MD)No.25561 of 2018 dated 27.12.2018.

Prayer in WP(MD). 25561/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus , directing the respondents no.1 & 2 to provide electricity connection in respect of the petitioners house in door no.288/1, Anna nagar, Maravamangalam village, Sivagangai Taluk, Sivagangai District.

For Appellant

: Ms.Saranya.J for
Mr.N.Sathish Babu

For 1st Respondent

: No appearance

For Respondents 2 & 3

: Mrs.Srimathi

JUDGMENT

<https://hcservices.ecourts.gov.in/judgments/> of the Court was delivered by **S.S.SUNDAR, J)**

This Writ Appeal is preferred by the third respondent in W.P. (MD)No.25561 of 2018, aggrieved against the order passed by the



learned Single Judge of this Court in the writ petition, wherein a direction has been issued to respondents 2 and 3 herein to consider the representation of first respondent herein to provide electricity connection to respondent's house in door No.288/1, Anna Nagar, Maravamangam Village, Sivagangai Taluk, Sivagangai District.

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2.The brief facts, which are necessary for the disposal of this writ appeal are as follows:

The writ petitioner had purchased a land to an extent of 10 cents through a sale deed dated 16.07.2010. The land in question was the subject matter of litigation in O.S.No.92 of 2005 between one Thiruvayee, vendor of the writ petitioner and one Saathayee and others. The suit was decreed in favour of the writ petitioner's vendor and the further appeal in A.S.No.142 of 2007 and the Second Appeal in S.A.(MD) No.228 of 2014 filed by the defendants in the suit were also dismissed. It is in the meanwhile the writ petitioner applied for putting up a construction in the land purchased by him. He also approached the third respondent herein for electricity connection. It appears that the appellant has filed a criminal complaint on 28.12.2017 and proceedings under Section 145 Cr.P.C. has been initiated. The appellant also states that she has got vested interest in the property in dispute and contends that electricity service could not be given to the writ petitioner. However, without notice to the appellant, the writ petition was disposed of with a direction to the first respondent herein to file an application for electricity connection before the official respondents within two weeks from the date of receipt of a copy of that order. There was further direction by the learned Judge to the official respondents to pass appropriate orders within a period of four weeks therefrom. It is against the said order, the appellant has preferred the writ appeal.

3.From the typed set filed by the appellant herself it is evident that the appellant herself has filed a suit subsequently in O.S.No.135 of 2010. Though the suit was for permanent injunction, the trial Court after framing necessary issues found that the appellant has failed to prove her title and possession and that the defendants in the suit are in the enjoyment of the suit property. The vendor of the first respondent is the first defendant in the suit and the first respondent is the fourth defendant in the suit. The learned counsel for the appellant has admitted that the first respondent is in possession and has put up a construction. After the dismissal of suit the appellant has created law and order problem to initiate proceedings under Section 145 Cr.P.C. This is illegal. The appellant only states that an appeal has been filed and the same is pending. In the said circumstances, the possession of first respondent is lawful even as held by the Civil Court in the suit filed by the appellant. In such circumstances, this Court is not inclined to interfere with the order of the learned Single Judge in allowing the writ petition with a direction to the official respondents to dispose of the application, seeking electricity connection to the first respondent.



4. In the result, the Writ Appeal is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

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Sd/-

Assistant Registrar (CS II)

Sub Assistant Registrar (CS)

+1cc to Mr.N.SATHISH BABU, Advocate, SR.No.55805
+1cc to Mr.J.JEYAKUMARAN, Advocate, SR.No.55750

W.A. (MD) No.347 of 2019

SJ

KK/SAR/04.04.2019/ 3P- 3C