



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.1316 of 2019

and

W.M.P. (MD) .Nos.1123 and 2551 of 2019

S.Sundarraaj

... Petitioner

Vs.

- 1.The Superintending Engineer,
Electricity Distribution Circle,
TamilNadu Generation and Distribution
Corporation (TANGEDCO),
Kovai Road, Karur.
- 2.The Executive Engineer,
(Operation and Maintenance)
Rural Division,
Electricity Distribution Circle,
TamilNadu Generation and Distribution
Corporation (TANGEDCO),
Kovai Road, Karur.
- 3.The Assistant Executive Engineer,
(Operation and Maintenance South),
Electricity Distribution Circle,
TamilNadu Generation and Distribution
Corporation (TANGEDCO),
Kovai Raod, Karur.
- 4.The Assistant Engineer,
TamilNadu Generation and Distribution
Corporation (TANGEDCO),
(Operation and Maintenance South Rural),
Rayanur, Karur.
- 5.R.Gunasekaran
- 6.Ramalingam
- 7.Govindaraj
- 8.Maruthamuthu
- 9.Panneer
- 10.Balu



11.Ravi

12.Logu

13.Chinnasamy

14.Raj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus by directing the respondents 1 to 3 to take appropriate action against the respondents 7 to 14 on the basis of the petitioner's complaint dated 18.01.2019 and consequently ensuring the total compliance of the interim order of injunction dated 30.11.2018 granted in I.A.No.657 of 2018 in O.S.No.242 of 2018 on the file of the Additional District Munsif, Karur.

For Petitioner : Mr.V.Balaji

For Respondents 1 to 4 : M/s.M.Rajeshwari
for Mr.S.M.S.Johny Basha

For Respondents 5 & 6 : Mr.B.Saravanan

ORDER

Heard the learned counsel on either side.

2.The writ petitioner herein filed a suit in O.S.No.242 of 2018 on the file of the Additional District Munsif Court, Karur praying for permanent injunction forbearing the respondents 5 and 6 herein from obtaining agricultural electricity service connection from TANGETCO by claiming title over the entire suit survey field in S.No.273/3 in Achimangalam Village. The petitioner filed I.A.No.657 of 2018 seeking temporary injunction. The learned Trial Munsif by order dated 30.11.2018 allowed the said I.A.

3.The specific case of the writ petitioner is that in contravention of the said injunction order granted by the Civil Court, the official respondents have attempted to grant agricultural electricity service connection in favour of the Respondents 5 and 6 herein. Therefore, the petitioner filed this writ petition and this Court vide order Dated 24.01.2019 granted interim order in favour of the petitioner herein to vacate the same. The respondents 5 and 6 have filed a vacate injunction petition.

4.The learned counsel appearing for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition. He also would specifically contend that he wants this Court to direct the management of TANGEDCO to take action against the erring officials.



5.The allegations made by the petitioner have been rebutted by the respondents 5 and 6.

6.I heard the rival contentions.

7.No doubt, the Trial Munsif in I.A.No.657 of 2018 in O.S.No.242 of 2018 allowed the I.A filed by the petitioner herein. But as contended by the learned counsel appearing for the respondents 5 and 6, the terms subject to which the I.A has been allowed will have to be taken note of this Court in para 7 of the order dated 30.11.2018, the learned Trial Munsif observed as follows:

"7.Point for consideration:-

Upon perusal of petition and counter, it reveals that the petitioner admitted that the respondent is entitled to an extent of Ac.3.51 cents in suit survey field and upon perusal of Ex.P11 and Ex.P12, it reveals that already written statement in O.S.No.38 of 2016 was filed by this respondent by claiming adverse possession. Hence, this Court feels there exists prima facie case, balance of convenience lies in favour of petitioner. But upon considering the loss of seniority in availing such electric service connection for agricultural subsidy. This respondent is liberty to applied for such agricultural subsidy electric service connection without mentioning about the disputed property, because the issues between the parties were decided only at the end of trial. With the above said liberty to the respondent. This petition is allowed. No costs."

8.It is seen that the respondents 5 and 6 herein have been given liberty to apply for grant of agricultural subsidy electricity service connection. But one restriction has been imposed. The applicants should not stake claim on the disputed property. If according to the petitioner, the order of injunction granted by the learned trial Court was breached, the remedy open to him is to move the very same Court for punishing the persons who have violated the injunction order. Filing of writ petition is misconceived.

9.According to the writ petitioner, the management of the TANGEDCO will have to take action against the erring officials. Again, it is for the superior officer to take a call in the matter. This Court will not be justified in directing the authority to take action against the erring officials. The appropriate remedy is only before the civil Court in which O.S.No.247 of 2018 is pending. There is absolutely no justification to knock the doors of this Court.



10. Accordingly, the Writ petition stands dismissed. No Costs. Consequently, connected Writ Miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

vsg

TO

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Rayanur, Karur.

+1CC TO MR.V.BALAJI, Advocate Sr. No.55141
+1CC TO MR.K.SURESH, Advocate Sr. No. 55215

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TR (23.04.2019) 4P 7C