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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**
W.P. (MD) No.12349 of 2018

and

W.M.P. (MD) Nos.11223 and 11224 of 2018

J.Stella Rani

... Petitioner

Vs

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Superintendent Engineer,
Kanyakumari Electricity Distribution Circle,
Nagercoil.

3.The Assistant Executive Engineer (Distribution),
TANGEDCO,
Thuckkalay,
Kanyakumari District.

4.The Assistant Engineer (Distribution),
TANGEDCO,
Thikkanancode,
Kanyakumari - 629 804.

5.The Sub-Collector,
Padmanabhapuram,
Thuckkalay,
Kanyakumari District.

6.The Tahsildhar,
Kalkulam Taluk,
Kanyakumari District.

7.The Village Administrative Officer,
Kappiyarai Village,
Kalkulam Taluk,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 4th respondent vide Ka.No.2.Mi.Po.Va. / Thikkode / Ko.Kat.No.217 / 18-19, dated 12.05.2018 and quash the same and consequently direct the 3rd respondent to provide electricity service connection to the petitioner's house in Sy.No.265 / 10A and D.No.16 / 87 Kappiyarai B Village, Kalkulam Taluk, Kanyakumari District as per the application dated 08.02.2010 within a time fixed by this Court.



For Petitioner : Mrs.J.Anandhavalli
For Respondents : Mr.M.Karuppasamy
Government Advocate for R1, R5 to R7
: Mr.S.M.S.Johnny Basha for R2 to R4

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ORDER

Heard the learned counsel on either side.

2.The writ petitioner submitted an application for grant of electricity service connection for the petition mentioned house. The application was made as early as on 08.02.2010. Whiles, the TANGEDCO authority issued the impugned communication dated 12.05.2018 calling upon the petitioner to have the approach road for laying the electric poles and surveyed. The petitioner was given hardly three days to carry out the said exercise, the petitioner encountered the resistance from one Prasanakumari, who claims to own lands in the vicinity. Therefore, the petitioner filed W.P.(MD) No.12530 of 2018, arraying the said Prasanakumari as the tenth respondent. The said writ petition was disposed of on 03.08.2018 in the following terms:-

"This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents 4 to 5 to lay the boundary stones with respect to the poramboke land in Survey No.261/24 in Kappiyarai Village, Kalkulam Taluk, Kanyakumari District in order to lay the electricity service lines to the petitioners house in Sy.No.265/10A of the same village.

2.It is seen that the survey of the property in survey No.261/24 in Kappiyarai Village, Kalkulam Taluk, Kanyakumari District has already been done and what remains is the laying of boundary stones. Since survey has already been done, there may not be any impediment for the 8th respondent to lay boundary stones.

3.In the light of the above observation, the petitioner is granted liberty to approach the 8th respondent seeking for laying of boundary stones by way of a representation and on receipt of such representation, 8th respondent shall take appropriate action within a period of two weeks therefrom.

4.With the above directions, this writ petition is disposed of. No costs. Consequently, connected WMP (MD)No.11225 of 2018 is closed."

3.The learned counsel appearing for the writ petitioner states that after the disposal of the writ petition, the work of survey and demarcation was done on 18.09.2108 and that the Revenue authorities had identified the land belonging to Mrs.Prasanakumari and the poramboke land available in the vicinity.



As a result of this identification, it is now possible to erect electric poles on these poramboke lands without touching upon the land belonging to the objector/Mrs.Prasanakumari.

4. At this stage, the learned Government Advocate pointed out that there is a water body in the vicinity and that therefore, it is not possible to comply with the petitioner's request. But this objection cannot hold water because the Assistant Engineer, Water Resources Organization, Public Works Department, Thukkalay, Kanyakumari District, had already been issued no objection certificate on 16.02.2018 in favour of the writ petitioner. After going through the entire materials, I am of the view that there is no legal or technical impediment for providing electricity service connection for the petitioner.

5. The learned standing counsel appearing for the TANGEDCO would state that the petitioner's application given in the year 2010 has been cancelled. I am not able to appreciate the stand of the TANGEDCO. TANGEDCO shall treat the petitioner's application dated 08.02.2010 as a live one. The petitioner is however directed to provide one duplicate set of earlier application and connected papers to the third respondent. The petitioner's counsel states that all the necessary charges have already been remitted. If there are any other formalities to be complied with by the writ petitioner, the same shall be complied with by the writ petitioner. Subject to that, the third respondent is directed to provide electricity service connection to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

6. The writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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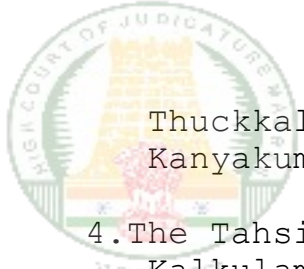
Sub Assistant Registrar (CS)

To:

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Sub-Collector,
Padmanabhapuram,
Thuckkalay,
Kanyakumari District.

3. The Assistant Executive Engineer (Distribution),
TANGEDCO,



Thuckkalay,
Kanyakumari District.

4.The Tahsildhar,
Kalkulam Taluk,
Kanyakumari District.

5.The Village Administrative Officer,
Kappiyarai Village,
Kalkulam Taluk,
Kanyakumari District.

+1cc to Mr.J.Anandhavalli,Advocate, SR.No.60855

+1cc to Special Government Pleader, SR.No.60992

W.P.(MD)No.12349 of 2018

SP/24.04.2019/4P/8C