



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2019

CORAM

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THE HON'BLE Mr.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.17510 of 2018

V.Vijayan

... Petitioner

-vs-

1.The Assistant Engineer,
Tamil Nadu Generation & Distribution Corporation,
Pudukottai Distribution, Vadakadu,
Pudukottai District.

2.The Assistant Executive Engineer,
Tamil Nadu Generation & Distribution Corporation,
Pudukottai Distribution, Vadakadu,
Pudukottai District.

3.V.Chinnadurai @ Villian (died)

4.Vijayakumari

5.Thanuja

6.Dharani

7.Ranjith

... Respondents

(Respondent Nos.4 to 7 are impleaded vide Court
order dated 23.04.2019 in W.M.P.(MD).No.6027
of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of CERTIORARIFIED MANDAMUS to call for the records pertaining to the order passed by the second respondent refusing to shift the electricity connection in No 153-004-136 from survey No.71-3C1G to 71 - 3C2 situated in Mangadu Village, Alangudi Taluk, Pudukkottai District, vide Ka:No:Ushe.Po/Etha/Vadakadu/Theni/AN:71, dated 30.05.2018 and quash the same as illegal and consequently direct the first and second respondents to shift the electricity connection in No: 153-004-136. from Sry No 71-3DC1G to Sry No 71-3C2, situated in Mangadu Village, Alangudi Taluk, Pudukkottai District.

For Petitioner : Mr.A.Arul Jenifer

For R-1 & R-2 : Mr.S.M.S.Johny Basha

For R-3 : Mr.K.Balasundharam

For R-4 to R-7 : No Appearance

**ORDER**

Heard the learned counsel on either side.

2. By consent of both parties, the main Writ Petition is taken up for final disposal.

3. The subject electricity connection was obtained by late Veluservai. He passed away in the year 1996. The writ petitioner is one of the sons of late Veluservai. There are other legal heirs available. But since the writ petitioner is the eldest son, the electricity connection was changed in his name. Now the petitioner's case is that the bore well which was being energised by the electricity connection in question had gone dry and therefore, he wants it to be shifted. But then, the other legal heirs raised objections. Therefore, the Tamil Nadu Generation and Distribution Corporation rejected the petitioner's request vide the impugned order dated 30.05.2018. The same is under challenge in this Writ Petition.

4. When the matter was taken up for hearing, the learned counsel appearing for the private respondents pointed out that the third respondent already filed a partition suit in O.S.No.23 of 2018, on the file of the District Court, Pudukottai. The petitioner herein is the second defendant.

5. The TANGEDCO Authorities cannot be faulted for having taken the stand that in view of the pending civil suit they cannot shift the electricity connection at this stage.

6. The learned counsel appearing for the writ petitioner submitted that he would abide by the outcome of the partition suit proceedings and that till such determination, he is willing to continue his right to claim 1/4th. He would recognize the 1/4th water right of the contesting private respondents herein. He stated that he would enter into an arrangement with the other two legal heirs.

7. Since the writ petitioner has subjected himself to the outcome of the partition suit proceedings and also accepted the 1/4th water right of the private respondents herein and since the bore well in question had turned dry, I am of the view that the petitioner can be allowed to shift the electricity connection.

8. In this view of the matter, the order impugned in the Writ Petition stands quashed. The Writ Petition stands allowed accordingly. No costs.



9. It is made clear that the contesting respondents herein will have 1/4th water right along with the writ petitioner herein. The writ petitioner can of course enter into an independent arrangement with the other two legal heirs.

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Sd/-

Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The Assistant Engineer,
Tamil Nadu Generation & Distribution Corporation,
Pudukottai Distribution, Vadakadu,
Pudukottai District.

2.The Assistant Executive Engineer,
Tamil Nadu Generation & Distribution Corporation,
Pudukottai Distribution, Vadakadu,
Pudukottai District.

+1 CC to M/s.A.ARUL JENIFER, Advocate SR-64765[F] dated 02/05/2019

W.P. (MD) No.17510 of 2018

CS: 15/05/2019/3P/4C