



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD) No.826 of 2018

and

WMP(MD)No.887 of 2018

Thangaiyan

... Petitioner

vs.

1.The Superintending Engineer,  
Tamil Nadu Electricity Generation and  
Distribution Corporation (TANGEDCO),  
Pudukottai.

2.The Assistant Electricity Engineer,  
Operation & Maintenance,  
Tamil Nadu Electricity Generation and  
Distribution Corporation (TANGEDCO),  
Regunathapuram,  
Pudukottai.

3.M.Govindaraj

4.Murugesan

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2<sup>nd</sup> respondent not to provide Electricity Service Connection to the flour - mill situated in S.No.250/2C, Papapatti Revenue Village, Pudukkottai viduthi village, Karambakudi Taluk, Pudukkottai District in favour of the 2<sup>nd</sup> respondent.

For Petitioner : Mr.D.Rameshkumar

For R1 & R2 : Mrs.M.Rajeswari  
for Mr.S.M.S.Johny Basha

For R3 & R4 : Mr.N.Balakrishnan



**O R D E R**

This Writ Petition is filed to forbear the 2<sup>nd</sup> respondent not to provide electricity service connection to the flour mill situated in S.No.250/2C, Papapatti Revenue Village, Pudukkottai viduthi village, Karambakudi Taluk, Pudukkottai District.

2.The petitioner is the brother of the third respondent and paternal uncle of the fourth respondent. The third respondent filed a suit for partition and mandatory injunction not to disconnect the power supply before the trial Court and the same was dismissed holding that the father of the petitioner and third respondent has independent title over the property in question viz., the rice mill. The third respondent filed an appeal against the judgment and decree and the same is pending. During pendency of the appeal, the fourth respondent has converted his residence and established a flour mill in the said place. He sought for electricity connection to that flour mill, which was objected to by the petitioner. Thereafter, the petitioner filed the present writ petition for a direction to forbear the second respondent from providing electricity service connection to the fourth respondent.

3.As per the judgment of trial Court, suit item No.60 is a rice mill, which is an independent property of the father of the petitioner and third respondent viz., Muthusamy Konar, he having purchased the same in the year 1971 by virtue of a registered sale deed. The said Muthusamy Konar executed a WILL in favour of his grandson viz., Kalaivanan, son of the petitioner and thereby the said Kalaivanan has become the exclusive and absolute owner of the property. Therefore, according to the petitioner, the fourth respondent cannot be held to be lawful possession of the property and thus, he is not entitled to get electricity service connection.

4.Controverting the said facts, the learned counsel for the respondents 3 and 4 would contend that the possession of the respondents 3 and 4 as on date was not disputed by the petitioner. He has also filed house tax payment receipt and a certificate from the Village Administrative Officer to prove that the fourth respondent is in lawful possession of the property and also produced the bill for purchase of motors and electrical items for establishing the flour mill. He would further contend that the petitioner, claiming to be the father of the owner of the property viz., Kalaivanan, has no locus standi to maintain the writ petition in the absence of any authorisation letter or power of attorney given in his favour from the said Kalaivanan. The learned counsel, in support of his contention, relied upon the judgments of this Court reported in 2009 (4) CTC 606 [A.Muthusamy and others V. The Assistant Engineer, Tamil Nadu Electricity Board, K.T.C.Nagar, V.M.Chathiram, Tirunelveli] and (2012) 3 MLJ 542 [C.V.Thirugnanam Vs. District Collector, Coimbatore District, District Collectorate,



5.I have heard the submissions made on either side.

6.Regulation 27(4) of the Tamil Nadu Electricity Distribution code, 2004, reads as under:

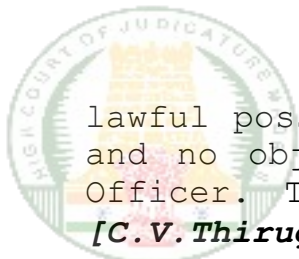
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"An intending consumer who is not the owner of the premises who occupies shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or he refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

7.As per the above provision, even if the consumer who applies for electricity service connection, is not the owner and does not produce any consent letter from the owner, if he produces a proof of his lawful possession and also executes an indemnity bond, electricity power supply connection shall be given.

8.In the instant case, there is a dispute between the siblings over the property. Whether the properties in question are ancestral or self acquired properties, has to be decided in the first appeal. During pendency of the civil litigation between the parties, it should be construed that the proof of possession is the only ultimate documentary evidence for providing electricity service connection.

9.Admittedly, the petitioner is not the title holder. But his son is the title holder. Therefore, the petitioner, who does not claim title to the property, has to prove his possession over the property. But the document produced by the fourth respondent, goes to show that it is an objection letter written by him to the second respondent. Curiously, the Village Administrative Officer issued two certificates, one in favour of the petitioner and another in favour of the fourth respondent. In the revenue record produced by the petitioner the survey number is shown as 250/2C (Old S.No.250/2P) in Patta No.254 measuring 0.41.0 ares. In the certificate issued in favour of the fourth respondent, the Survey Number is mentioned as 250/2C1 in patta No.81 measuring an extent of 0.29.0 ares. In that certificate the petitioner's property is shown as Southern boundary bearing S.No.250/2C2. Hence the properties of both the parties are separate and distinct. The Village Administrative Officer has given no objection certificate for providing electricity supply. It should be inferred that the fourth respondent is in



lawful possession of the property, in view of the house tax receipt and no objection certificate issued by the Village Administrative Officer. This Court in a judgment reported in **2012 (3) MLJ 542 [C.V.Thirugnanam Vs. District Collector, Coimbatore District, District Collectorate, Coimbatore]**, at paragraph Nos.9 and 10, has held as under:

"9. Therefore, on a perusal of the above, it is clear that the occupant of the premises who is not the owner, can avail the electricity on producing proof of his being in lawful occupation of the premises as well as executing an indemnity bond and making security deposit in the event of any loss arising out of effecting such service connection.

10. It is admitted fact that the members of the 6th respondents have been in occupation of the premises for the past several years and even claiming the ownership over the said property, they filed a civil suit and it is pending before the civil Court. In such circumstances, the members of the 6th respondent are certainly entitled to avail the electricity. However, it is made clear that providing the electricity service connection to the members of the 6th respondent itself does not confer any right or title over the property and it is always subject to the outcome of the civil suits pending before the civil Court."

10.In **2009 (4) CTC 606 [A.Muthusamy and others V. The Assistant Engineer, Tamil Nadu Electricity Board, K.T.C.Nagar, V.M.Chathiram, Tirunelveli]** at paragraph Nos.9 and 10, it is held as under:

"8.An identical issue under the erstwhile Electricity Act, 1910 and the terms and conditions framed thereunder, came up for consideration before this Court. This Court in a decision reported in **P.Arumugam Vs. Government of Tamil Nadu, etc. and others, 2003 WLR 248**, has held that in terms of Clause 6.04 of the terms and conditions of supply of electricity, electricity connection could be granted on execution of indemnity bond in the form prescribed by the Board. It was also made clear that merely because of the power supply given, it would not confer the ownership over the disputed land.

9.The ratio of the above said decision would apply to the case on hand. Admittedly, the petitioners are not the owners of the land and in terms of Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code as stated supra, the respondent-Board can consider the application of the petitioners for electricity supply and grant the same after obtaining the indemnity bond and other fees. In that view of the matter, there shall be a direction to the



respondent-Board to consider the petitioners' request for service connection in terms of Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code and grant electricity supply, after obtaining the indemnity bond in the statutory form and required fees, within a period of three weeks from the date of receipt of a copy of this order, if their applications otherwise found to be in order. It is made clear that mere grant of electricity supply would not confer any right over the petitioners in respect of the land in question."

11. Therefore, in view of Clause 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 and the documents produced in support of the request to provide electricity connection, the fourth respondent is entitled to get electricity supply, on furnishing indemnity bond to compensate any loss that may be caused to the original owner. In so far as *locus standi* is concerned, admittedly, the petitioner is not the owner of the property and he has not obtained any authorisation letter or power of attorney to file the above writ petition. The son of the petitioner viz., Kalaivanan, who claims title through the WILL has not given any representation to the respondents 1 and 2 objecting grant of electricity service connection. In the absence of any objection from the owner of the property, it should be construed that the objection of the petitioner is from a third party. Therefore, I am of the considered view that the writ petition is not maintainable by a third party and the fourth respondent is entitled to get electricity service connection.

12. The writ petition is disposed of accordingly. No costs. Consequently, WMP(MD)No.887 of 2018 is closed.

Sd/-

Assistant Registrar (C.O)

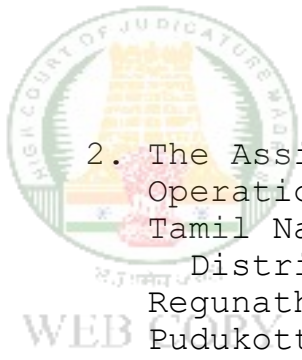
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Sub Assistant Registrar(CS )

Mj

To

1. The Superintending Engineer,  
Tamil Nadu Electricity Generation and  
Distribution Corporation (TANGEDCO),  
Pudukottai.



2. The Assistant Electricity Engineer,  
Operation & Maintenance,  
Tamil Nadu Electricity Generation and  
Distribution Corporation (TANGEDCO),  
Regunathapuram,  
Pudukottai.

+1 CC to M/s.D.RAMESHKUMAR, Advocate SR-87107.  
+1 CC to M/s.N.BALAKRISHNAN, Advocate SR-87406.

**W.P (MD) No.826 of 2018**  
**17.09.2019**

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