



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P (MD)No.19970 of 2014

and

M.P (MD) .No.1 of 2014

V.Pandi

... Petitioner

Vs.

- 1.The Assistant Executive Engineer,
Distribution for Urban
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Cumbum Town,
Uthamapalayam Taluk,
Theni District.
- 2.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Cumbum Town,
Uthamapalayam Taluk,
Theni District.
- 3.The Junior Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Cumbum Town,
Uthamapalayam Taluk,
Theni District.
- 4.The Executive Officer,
Arulmighu Kambarayaperumal Kasi
Vishwanathaswamy,
and Gowmariamman Thirukovil,
Cumbum Town,
Uthamapalayam Taluk,
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to give electricity supply to the petitioner's



house, Door No.54, Ward No.19, I Floor, Kambarayaperumal Kovil Street, Cumbum Town, Uthamapalayam Taluk, Theni District on executing the indemnity bond under Clause 27(4) of Tamil Nadu Electricity Distribution Code 2004 without insisting NOC to be obtained from the fourth respondent.

For Petitioner : Mr.K.Guhan
For R1 to R3 : Mr.S.M.S.Johny Basha
Standing Counsel
For R4 : Mr.M.Karuppasamy Pandian

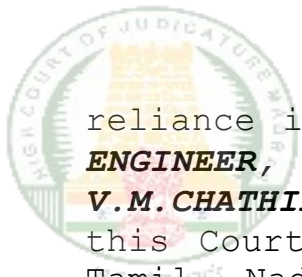
ORDER

This writ petition has been filed seeking a direction to the respondent Nos.1 to 3 to give electricity supply to the petitioner's house, Door No.54, Ward No.19, I Floor, Kambarayaperumal Kovil Street, Cumbum Town, Uthamapalayam Taluk, Theni District, on executing the indemnity bond, under Clause 27 (4) of Tamil Nadu Electricity Distribution Code 2004, without insisting NOC to be obtained from the fourth respondent.

2.Heard Mr.K.Guhan, learned counsel appearing for the petitioner, Mr.S.M.S.Johny Basha, learned Standing Counsel appearing for the respondent Nos.1 to 3 and Mr.M.Karuppasamy Pandian, learned counsel appearing for the fourth respondent.

3.In the affidavit, it has been averred that the petitioner, who is a tenant under the fourth respondent/Temple, has put up a multi storage building in Door No.54, Ward No.90, Kambarayaperumal Kovil Street, Cumbum Town. Admittedly, the said property belonged to the fourth respondent. There was a litigation between the Temple and the petitioner/tenant and the petitioner has filed a suit in O.S.No.303 of 2012 before the District Munsif Court, Uthamapalayam, seeking declaration and mandatory injunction. Further, it is stated that the name of the petitioner was included in the MDR Register, which is maintained by the fourth respondent. Even, as per the MDR Register, the petitioner is an occupant of the property and from 01.10.1987, the petitioner is a tenant under the fourth respondent. While so, the petitioner has constructed a residential building in the aforementioned address and applied for electricity connection to the respondents 1 to 3 to the first floor of the said building. The respondents 1 to 3 have rejected his application on the ground to get NOC from the fourth respondent. Despite the fact that the possession of the petitioner is lawful, the respondents 1 to 3 are not providing electricity connection to his house, which is against Article 14 of the Constitution of India. Therefore, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner places his



reliance in the case of **A.MUTHUSAMY AND OTHERS, V. THE ASSISTANT ENGINEER, TAMIL NADU ELECTRICITY BOARD, K.T.C. NAGAR, V.M.CHATHIRAM, TIRUNELVELI**, reported in **2009(4) CTC 606**, wherein this Court has considered a similar issue. Clause 27(1) of the Tamil Nadu Electricity Distribution Code, deals with the requisitions for supply of energy. In terms of Clause 27(1)(1) of the said Code, it is incumbent that every distribution license, shall on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after the receipt of the application requiring such supply.

5.It is useful to extract Clause 27(2)(4) of the Tamil Nadu Electricity Distribution Code, which reads as under:

"An intending consumer who is not the owner of the premises he occupies 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 of this Code indemnifying the license 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."

6.In the above referred case, in Paragraph No.9, this Court has held as follows:

"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."

<https://hcmca.judges.org.in/cases> Though there are also other decisions in this regard furnished by



the learned counsel for the petitioner, it is not necessary to advert to all of them at this point.

7.Hence, in line with the above decision, the petitioner is directed to furnish indemnity bond in Form 6 of the Annexure III of the Code indemnifying the licensee against any loss on account of disputes between him and the fourth respondent. The respondent Nos.1 to 3 are directed to consider the petitioner's request for providing electricity 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 along with required fees, within a period of four weeks from the date of receipt of a copy of this order, if his applications otherwise found to be in order.

8.With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

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To:

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**+1 CC to MR.M.KARUPPASAMY, Advocate (SR-104237[F] dated
10/12/2019)**

+ CC to MR.K.GUHAN, Advocate (SR-104301[F] dated 10/12/2019)

W.P(MD)No.19970 of 2014
10.12.2019

_KM/ (06.01.2020) 5P 7C