



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD)No.22242 of 2019

and

WMP (MD)No.19017 of 2019

M.Lakshmipathirajan

.. Petitioner

Vs.

1.The Executive Engineer

Tamil Nadu Electricity Distribution,
Tamil Nadu Electricity Board,
New Natham Road, Madurai - 625 002.

2.The Assistant Engineer,

Tamil Nadu Electricity Distribution,
Tamil Nadu Electricity Board,
Viraganoor, Madurai - 625 009.

3.V.Padma

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 and 2 not to provide any electric connection in respect of the property bearing Survey No.110/5 of the land measuring 0.45.50 acres situated in Viraganoor, Madurai South Taluk, Madurai District till the disposal of the suit in O.S.No.457 of 2016 on the file of the II Additional Subordinate Judge, Madurai.

For Petitioner : Mr.N.Murugesan

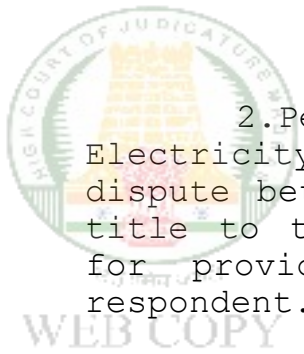
For R1 & R2 : Mrs.N.Rajeshwari

for Mr.S.M.S.Johny Basha

For R3 : Mr.V.Ilanchezian

ORDER

The writ petitioner, claims himself as the owner and in possession of the property in question. He has also filed a civil suit on the file of II Additional Sub Court, Madurai in O.S.No.457 of 2016. During pendency of the civil litigation, the third respondent claiming herself a purchaser of the property, sought for electricity service connection from the respondents 1 and 2. Hence, the petitioner filed the present writ petition for issuance of writ of mandamus, forbearing the respondents 1 and 2 from providing electricity connection to the third respondent.



2.Per contra, the learned counsel appearing for the Electricity Board/respondents 1 and 2 would submit that there is a dispute between the petitioner and third respondent with regard to title to the property. Therefore, the petitioner raised objection for providing electricity connection in favour of the third respondent.

3.The learned counsel appearing for the third respondent would contend that originally the property belonged to one P.K.Pari. Brother of the third respondent viz., Rajaram had purchased the property from the said P.K.Pari and settled it in her favour. The documents and deeds of conveyance are still intact and the same have not been challenged or set aside by any Court. As long as her title is established, the third respondent is entitled to get electricity service connection and the writ petition, as such, is not maintainable, as it involves disputed question of facts.

4.I have considered the submissions made by both sides.

5.Admittedly, the case of the petitioner is that his father had purchased the property in the name of his nephew P.K.Pari. Even though it is purchased out of his father's earnings, the said P.K.Pari did not give any share to him. Aggrieved over the same, he had already approached the civil Court for appropriate reliefs. It is therefore quite clear that factum of title and possession is sub-judice before the civil Court and any interim order on these disputed questions of fact can be obtained before the civil Court. In such circumstances, based on the disputed questions of fact, the writ petition is not maintainable. The petitioner has to work out his remedy before the civil Court in the manner known to law.

6.The writ petition is dismissed with the above observations. No costs. Consequently, WMP(MD)No.19017 of 2019 is closed.

Sd/-

Assistant Registrar (AD-II)

/ True Copy /

Sub Assistant Registrar(CS-II)

+1 CC to M/s.N.MURUGESAN, Advocate (SR-19648[I] dated 14/11/2019)
+1 CC to M/s.K. SIVABALAN, Advocate (SR-98525[F] dated 15/11/2019)

W.P(MD)No.22242 of 2019

Mj

<https://hccs.cse.judis.gov.in/fcserv/243/19/2P/3C>