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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.9235 of 2017
and
W.M.P.(MD)No.7015 of 2017
and
CONT.P.(MD)No.1224 of 2017
in
W.P.(MD)No.5204 of 2017

W.P.(MD)No.9235 of 2017:-

Ganesan :Petitioner

vs.

1.The Assistant Divisional Electricity Engineer,
TANGEDCO, Kalingapatti,
Tirunelveli District.

2.The Junior Engineer,
TANGEDCO, Kalingapatti,
Tirunelveli District.

3.Anthoniraj :Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, for issuing Writ of Mandamus, to direct the first and second respondents not to erect the electricity Pole at survey No.1113/1 and 2 situated at South Mallayadipatti, Karisathan Village, Tirunelveli District by considering the representation, dated 11.05.2017.

For Petitioner :Mr.S.Ramakrishnan

For R1 and R2 :Mr.G.Kasinathadurai

For R3 :Mr.V.Muthuvelan

CONT.P.(MD)No.1224 of 2017:-

M.Anthoniraj :Petitioner

vs.

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1.Ilamparithy
Superintendent Engineer,
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli District.

2.Perumal,
Assistant Executive Engineer (AEE),
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
Kalingapatti, Tiruvenkatam Taluk,
Tirunelveli District.

3.Meenampathi Karthica,
Junior Engineer (JE),
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
Kalingapatti, Tiruvenkatam Taluk,
Tirunelveli District.

4.Ganesan :Respondents

(R4 impleaded as substituted respondent/contemnor vide order of this Court in Sub.A.(MD)No.71 of 2018, dated 12.04.2018)

PRAYER: Contempt Petition is filed under Section 11 of Contempt of Courts Act, to punish the respondents for their wilful disobedience of the order of this Court, passed in W.P.(MD)No.5204 of 2017, dated 24.03.2017.

Prayer in WP(MD). 5204/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the Respondents No.1 to 3 to consider the petitioner's last representation dated 13.03.2017 and consequently direct the third respondent to erect the EB connection in the petitioner's Dwelling house No.4/864 vide in Survey No.1094/2B of South Malaiyadipatti Village, Thiruvenkadam Taluk, Tirunelveli District through the common path which was available in Survey No.1113/1C.

For Petitioner :Mr.V.Muthuvelan
For R1 to R3 :Mr.G.Kasinathadurai
For R4 :Mr.S.Ramakrishnan

COMMON ORDER

In order to purchase peace, the parties have entered to an agreement and they have also agreed that they have no claim or demand against each other with respect to the subject matter of

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contempt petition in Cont.P.(MD)No.1224/2017 in W.P.(MD)No.5204 of 2017 and W.P.(MD)No.9235 of 2017, and as per the mediation Settlement Agreement entered into between the parties, dated 18.06.2019, the parties have agreed to the following terms:

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"1.Both parties have agreed to settled the issue regarding the electricity connection, seeking by the 1st Party (M.Anthoniraj) for constructing a dwelling house and he claimed that S.No.1113/1C, Karisathan Village, South Malaiyandipatti from the 2nd party, ie., TANGEDCO, which is common path.

2.The 4th respondent, namely, V.Ganesan (3rd party) is the objector in this issue. He claims that the above said Survey No's is not a common path. He is claiming that above said property (vacant site) belongs to him and 8 others including petitioner's (Anthoniraj) father.

3.Both the petitioner, namely, M.Anthoniraj and the 4th respondent in contempt petition (Ganesan) is neighbors, adjacent resident land owner. A Writ Petition, vide, W.P.(MD)No.5204/2017 has been filed by 1st party against the 2nd party (TNEB) for seeking EB connection and the same was ordered by His Hon'ble Court. Subsequently, a Contempt Petition vide in Contempt Petition (MD)No.1224/2017 has filed by 1st party. Similarly 3rd party (V.Ganesan) has filed Writ Petition, vide in WP(MD)No.9235/2017 for seeking direction against the 2nd party with praying not to erect EB line for 1st party and also stay was granted by His Hon'ble High Court, and both cases clubbed and forwarded to the Mediation Centre for amicable settlement of both parties.

4.Now all the parties has been agreed to settle the issue amicably.

5.The 4th Respondent, namely, V.Ganesan (3rd party) now given No objection for erecting the EB line in the corner (Pozhi) of the S.No.1113/1c, 111/2c & 1113/2h, without touching his property line and the same was accepted by the Petitioner and the 3rd Respondent in Contempt Petition, namely, Meenampathi Karthiga, Junior Engineer, Kalingapatti, Tiruvenkadam (Taluk), and 1st and 2nd Respondents in the Contempt Petition has agreed to given EB Connection to the petitioner's house to the above said Survey Numbers within 10 days from the date of the order passed by the Hon'ble High Court.

6.The petitioner has given No objection to put up fencing around in the 4th Respondent's property.

7.The 4th Respondent has agreed to withdraw the writ petition W.P.(MD)No.9235/2017 and the Petitioner may also agreed to withdraw the Contempt Petition(MD)No.1224/2017 before this Hon'ble High Court.

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8.Further, the 3rd Respondent, namely, Meenampathi Karthiga, Junior Engineer, agreed to withdraw the Criminal Case as against the Ganesan and others, vide in F.I.R. in Cr.No.101/2017 and C.C.No.125/2017 pending before the Judicial Magistrate Court, Sankarankovil.

9.Further, F.I.R. in Cr.No.274/2018 and FIR in Cr.No.275/2018 dated 01.09.2018 pending before the Karivalamvanthanallur Police Station, ie., case and counter case lodged by the mother of Contempt Petitioner ie., Mrs.Kovilthai and brother of V.Ganesan has agreed to withdrawn.

10.Further, O.S.No.150/2017 has filed by the 4th Respondent, namely, Ganesan and 5 others against the Petitioner Mr.M.Antonyraj and the 2nd Respondent, vie., Assistant Engineer, TANGEDCO, pending before the Principal District Munsif Court, Sankarankovil, has agreed to withdrawn by the 4th Respondent viz., V.Ganesan and 5 others.

7.By signing this Agreement, all the parties hereto stated that they have no further claims or demands against each other with respect to Cont.P(MD)No.1224/2017 in W.P.(MD)No.5204/2017 and WP(MD)No.9235/2017 and all disputes and differences in this regard have been amicably settled by the Parties hereto through the process of conciliation / Mediation."

2.Though the third respondent, the Junior Engineer, has also signed in the settlement Agreement, he expressed his concern that a criminal original petition filed by one Rangarajan is pending in Crl.O.P(MD)No.11567 of 2017 to quash the FIR in Cr.No.278 of 2018. The learned Counsel on either side also agreed that the said criminal original petition has become infructuous, as charge sheet has already been filed and the matter is also taken on the file of the Judicial Magistrate Court, Sankarankovil. The terms of compromise shall be reported by the parties, when ever it is required.

3.In view of the settlement Agreement, all these petitions are disposed of in terms of settlement Agreement, dated 18.06.2019. The Settlement Agreement, dated 18.06.2019, shall form part of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Superintendent Engineer,
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
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2.The Assistant Executive Engineer (AEE),
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
Kalingapatti, Tiruvenkatam Taluk,
Tirunelveli District.

3.The Junior Engineer (JE),
Tamil Nadu Power Generation and Distribution
Corporation Limited (TANGEDCO),
Kalingapatti, Tiruvenkatam Taluk,
Tirunelveli District.

+1 CC to M/s.S. RAMA KRISHNAN, Advocate (SR-83923[F] dated 28/08/2019)

W.P.(MD)No.9235 of 2017
and
CONT.P.(MD)No.1224 of 2017
26.08.2019

CMR
MS/16.09.2019/5P.5C

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