

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.18719 of 2013

Vaithiyalingam

.. Petitioner

Vs

1.Union Territory of Puducherry,
Rep. By its Chief Secretary,
Secretariat, Puducherry.

2.The Executive Engineer IV,
Department of Electricity,
Government of Puducherry,
Puducherry.

3.Superintendent Engineer III,
Department of Electricity,
Government of Puducherry,
Puducherry.

4.The Assistant Engineer,
Thirubuvanai Sub Station,
Department of Electricity,
Puducherry.

5.The Junior Engineer,
Vathanoor Electricity Office,
Department of Electricity,
Government of Puducherry,
Puducherry.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the impugned proceedings of the fourth respondent dated 19.04.2013 in No.40ED/AE-TSS/F.12/2013-14, quash the same and consequently direct the respondents to grant service connection to the petitioner's bore-well constructed in the petitioner's land in Puducherry Registration District, Thirukanur Sub-Registration District, Mannaidipattu Commune Panchayat, outside Sorapet, Punjalands, cadastre No.546, 59/2, 545/1, 545/3, 561/2, 560 Patta No.23, Re-survey No.41/3, Hc 02.74.00.

For Petitioner : Mr.D.Ravichander
Assist. by Ms.A.Akshaya
For Respondents : Ms.G.Djearavy, GA (Pondy)

ORDER

Heard Mr.P.Dinesh Kumar, learned counsel for the petitioner, assisted by Ms.A.Akshaya, learned counsel, and Ms.G.Djearavy, learned Government Advocate (Pondy) appearing for the respondents.

2. The petitioner challenges the impugned proceedings of the fourth respondent dated 19.04.2013, by which, the application filed by the petitioner for grant of agricultural service connection was rejected and the amount remitted by the petitioner was refunded.

3. Though the impugned order does not clearly state as to what is the dispute, it appears that there was an objection raised by one Vasanthi stating that the survey number in which the petitioner dug bore-well is S.No.42/3, however, the petitioner claims it to be in RS.No.41/3. In fact, the fourth respondent has called for documents from the petitioner by notice dated 19.03.2013, but, the petitioner failed to submit the same. Thereafter, another communication dated 04.04.2013 was sent to the petitioner informing him that his application dated 18.08.2011 has been cancelled with instruction to apply fresh with required documentary evidence in future if he required supply. The petitioner has not questioned the communication dated 04.04.2013, but, has questioned the impugned communication which is only a consequential.

4. Be that as it may, the petitioner has admitted to the fact that he has filed O.S.No.81 of 2013 before the Sub-Court, Puducherry, on the ground that his vendors while executing the sale deed had mistakenly mentioned wrong survey number, whereas the boundary and the extents are the same which would clearly show that the property conveyed in favour of the petitioner is Re-survey Nos.41/3, 42/1 and 42/3 and the said suit is still pending.

5. Learned counsel for the petitioner submitted that the suit has been listed during this month for filing written statement.

6. Since there is a dispute as regards the survey number of the property rather identity of the property, the Court cannot compel the fourth respondent to issue electricity connection, because, unless and until the Civil Court passes an order/judgment, no decision can be taken by the fourth

respondent. Therefore, the petitioner has to secure appropriate orders/judgment from the Civil Court and then approach the fourth respondent for electricity connection and the cancellation of the application dated 18.08.2011 cannot be set aside at this juncture and accordingly, the decision taken by the fourth respondent in the impugned communication stands confirmed. However, in the event the petitioner is able to secure appropriate orders/judgment in the civil suit, the petitioner would be entitled to revive his application dated 18.08.2011 and the petitioner should not be compelled to file fresh application.

7. Thus, for all the reasons stated above, the writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary,
Secretariat, Puducherry.

2.The Executive Engineer IV,
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Government of Puducherry,
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3.Superintendent Engineer III,
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Government of Puducherry, Puducherry.

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Vathanoor Electricity Office,
Department of Electricity,
Government of Puducherry, Puducherry.

+1cc to Mr.Dinesh kumar , Advocate SR.No. 13560

+1 cc to Government Pleader Sr.No. 13895

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A.SK(16/03/2020)