



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

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

W.P.No.25777 of 2012

M.Gomathi

..Petitioner

vs.

1.The Junior Engineer/Town,
Operation and Maintenance,
Erode Electricity Distribution Circle,
Tamil nadu Electricity Board,
Perundurai - 638 052,
Erode District.

2.The Executive Officer,
Perundurai Town Panchayat,
Perundurai - 638 052,
Erode District.

3.T.G.Krishnasamy

4.P.Subramaniam

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the order made in Letter No.AE/O&M/T/PRI/5/ Lr.No.17/11 passed by the 1st respondent dated 16.08.2011, quash the same and consequently direct the 1st respondent to disconnect the electricity service connection in D.No.355/6, Kunnathur Road, Perundurai stood in the name of the 4th respondent.

For Petitioner : Mr.N.Manokaran

For Respondents 1 & 2 : Mr.N.Damodharan, Standing Counsel

For Respondent 3 : No appearance

For Respondent 4 : Mr.I.C.Vasudevan



O R D E R

Heard Mr.N.Manokaran assisted by Mr.R.Vinothraja, learned counsel for the petitioner and Mr.N.Dhamodharan, learned standing counsel for the first and second respondents and Mr.I.C.Vasudevan, learned counsel for the fourth respondent.

2. This writ petition has been filed challenging the communication sent by the first respondent to the writ petitioner rejecting the representation in which the petitioner sought for disconnection of the Electricity Service Connection granted to the fourth respondent.

3. The representation had referred to the civil dispute between the petitioner, her father's power agent, the third respondent, and the fourth respondent who is the purchaser of the property pursuant to the sale deed executed in the year 2002 by the power agent of the petitioner's father namely the third respondent.

4. There are five suits which were pending. One of which has been filed by the petitioner in O.S.No.22 of 2011 on the file of the Sub Court, Perundurai for partition and permanent injunction and the fourth respondent herein is the tenth defendant. Suguna Devi wife of T.K.Bhoopathi, the brother of the petitioner has filed one of the suit in O.S.No.530 of 2003 on the file of the Sub court Erode which was transferred and renumbered as O.S.No.44 of 2012 on the file of the Sub Court, Perundurai for the relief of partition, separate possession, maintenance and permanent injunction. In the said suit, the fourth respondent is the eight defendant. The petitioner's father and his six sons have filed O.S.No.184 of 2004 on the file of the Sub Court Erode which was transferred and renumbered as O.S.No.6 of 2009 on the file of the Sub court, Perundurai to declare the sale deed dated 13.06.2001 executed in favour of the fourth respondent as null and void and for permanent injunction. The fourth respondent herein is the third defendant. There are two other suits pertaining to the very same property for partition and permanent injunction in O.S.No.40 of 2011 and O.S.No.45 of 2011 on the file of the Sub Court, Perundurai in which the fourth respondent herein is the eleventh defendant.

5. Considering the ongoing civil disputes, the first respondent has refused to consider the petitioner's representation to disconnect the Electricity Service Connection granted to the fourth respondent. In the considered view of this Court, the decision taken by the first respondent cannot be fault. The first respondent cannot be called upon to decide the title of the property which the petitioner has to establish before the Civil Court in all the suits which are now pending.



6. Furthermore, the interest of the petitioner is sufficiently safeguarded because the Electricity Board has obtained indemnity bond from the fourth respondent, thereby the fourth respondent cannot use the order granting electricity Service connection to improve his case before the Civil Court nor can be utilised the order granting water and sewerage to strengthen his case. The fourth respondent has to establish his right based on the oral and documentary evidence before which the petitioner has to establish her right that she is entitled for partition of the said property.

7. Therefore, in the considered view of this Court, the impugned communication does not call for any interference and the interest of the petitioner has been sufficiently safeguarded in the light of the indemnity bond executed in favour of the first respondent, Electricity Board.

8. For the above reasons, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

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To

1.The Junior Engineer/Town,
Operation and Maintenance,
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Erode District.

2.The Executive Officer,
Perundurai Town Panchayat,
Perundurai - 638 052,
Erode District.

+1cc to Mr.N.Manokaran, Advocate SR.No.20929

+1cc to Mr.I.C.Vasudevan, Advocate SR.No.21693

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MRJK(CO)
GMY(13/07/2020)