



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM:

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

W.P.No.30374 of 2012
and M.P.No.1 of 2012

S.Durai

...Petitioner

vs.

1.The Assistant Engineer, CIT Nagar-I,
Chennai Electricity Distribution Circle,
Saidapet, Chennai - 600 015.

2.S.Shanmugam

...Respondents

PRAYER: Writ Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the proceedings of the 1st respondent in Ku. AaNo.UMiPo/CIT Nagar-I/Ko.Thani/AO/382/2012 dt 29.10.2012 and the same.

For Petitioner : Mr.N.Vijayakumar
for M/s.Palani Selvaraj

For Respondents : Mr.P.R.Dhilipkumar for R1
Standing Counsel

Mr.S.Sabari Perumal for R2

O R D E R

Heard Mr.N.Vijayakumar for M/s.Palani Selvaraj, learned counsel appearing for the petitioner and Mr.P.R.Dhilipkumar, learned standing counsel appearing for the first respondent Electricity Board. Though the second respondent has entered appearance through counsel none appears for the second respondent.

2.The petitioner has impugned an order passed by the first respondent dated 29.10.2012. The petitioner is the owner of the subject premises and in a portion of which, the second respondent is the tenant. The period of tenancy which commenced pursuant to a rental agreement dated 06.02.2004 was for 11 months which came to an end in December 2004. The tenancy



agreement has not been renewed thereafter.

3.The petitioner would state that the second respondent defaulted in payment of rent from the year 2008 and in January 2009 he vacated the premises and removed all his goods. But, however, he kept the premises locked with an intention to deny the petitioner, the benefit of enjoying the property. The petitioner has filed eviction proceedings on the ground of wilful default and for owners occupation in RCOP.No.1678 of 2011. In the said petition, the second respondent filed a miscellaneous petition in M.P.No.327 of 2011 under Section 17(3) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 seeking for restoration of electricity supply. The Court of Small Causes by an order dated 24.05.2012, directed restoration of electricity supply and also ordered the rent payable to the petitioner landlord to be paid in six monthly installments.

4.The petitioner's case is that the second respondent did not seek for implementation of the order passed by the learned Rent Controller. Further, it is stated that the fact the second respondent is not in possession of the premises was categorically admitted by him during the cross examination in the eviction proceedings.

5.While so, the second respondent filed a writ petition in No.24708 of 2012, praying for a direction upon the first respondent to provide electricity service connection for the shop premises. The petitioner was impleaded as a respondent in the writ petition, but without notice to the petitioner, the writ petition was disposed of on 11.09.2012, directing the first respondent to conduct an enquiry to ascertain as to whether the second respondent herein, was in lawful possession of the premises and passed an order in terms of clause 27 (4) of the Tamil Nadu Electricity Distribution Code, 2004. Pursuant to which, the impugned order has been passed.

6.Substantial portion of the finding rendered by the first respondent in the impugned order is correct to the effect that there cannot be more than one service connection in the premises as long as there is no physical segregation. However, in the last paragraph of the impugned order, the first respondent has stated that if electricity supply is not given to the second respondent, he will disconnect the electricity supply granted to the petitioner.

7.In the considered view of this Court, this finding rendered by the first respondent is without jurisdiction and illegal. Had the first respondent stopped by saying that no new service connection can be granted to the second respondent his order could not have been faulted. However, he overstepped his



jurisdiction entered into the realm of civil dispute between the petitioner and the second respondent. Therefore, the impugned order has to be held to be illegal. In fact, the threat meted out by the first respondent to the writ petitioner is uncalled for. Probably he was acting at the behest of the second respondent.

8. For the above reasons, the writ petition is allowed and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

pam

To

The Assistant Engineer, CIT Nagar-I,
Chennai Electricity Distribution Circle,
Saidapet, Chennai - 600 015.

+1cc to Mr.P.R.Dhilipkumar, Advocate SR.No.21625

W.P.No.30374 of 2012

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