

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 25.08.2020

Delivered on 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

WP.No.8171/2020 & WMP.Nos.9719, 9720 & 9721/2020

Mahindra Lifespace Developers Ltd.

a Company registered under the Companies Act
rep.by its Authorized Signatory Mr.R.Eswaran
having project office at 5th Cross Street,
VGN Royal Enclave Extension
Off Poonamallee Avadi High Road
Paruthipet, Avadi, Chennai 600 071.

..Petitioner

Versus

1.The Chairman and Managing Director,
TANGEDCO, Anna Salai,
Chennai 600 002.

2.The Chief Engineer/Distribution
Chennai West Region, TANGEDCO
Head Quarters Office, No.144, Anna Salai,
Chennai 600 002.

3.The Chief Engineer / Commercial
TANGEDCO, Head Quarters Office
No.144, Anna Salai, Chennai 600 002.

4.The Superintending Engineer
CEDC/West, 110/33/11KV,
Thirumangalam Sub Station
Chennai 600 040.

5.The Executive Engineer
O&M/Avadi, Chennai EDC/West
229, N.M.Road, Avadi
Chennai 600 054.

6.The Assistant Executive Engineer
O&M/Pattabiram, CEDC/West
TANGEDCO, Chennai.

...Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records comprised in the proceedings in [i] Lr.No.AEE/O&M/PTM/F.New SS.Mahindra/D.No.136/18 dated 09.04.2018 issued by the 6th respondent, [ii] Lr.No. AEE/O&M/PTM/F.NewSS /D.No.424/2018 dated 24.12.2018 issued by the 6th respondent ; [iii] Lr. No. SE/CEDC/West/AEE/DEV/AE.II/F.Land/D.1491/2018-19 dated 09.01.2019 issued by the 4th respondent ; [iv] Lr.No.EE/O&M/Avadi/AE.R.46/F.Mahindra/D.Camp/19 dated 04.04.2019 issued by the 5th respondent and [v] Lr.No.SE/CEDC/West/AEE/DEV/AE.II/F.Land/D.73/2019-20 dated 12.04.2019 issued by the 4th respondent and quash the same and consequently direct the respondents 4 to 6 to effect single phase service connection to the petitioner's project in terms of clause 5[d] of the 1st respondent's proceedings without insisting upon the petitioner to provide lands for sub-station.

For Petitioner : Mr.R.Bharath Kumar
For Respondents : Mr.P.R.Dhilip Kumar
Standing counsel

ORDER

- (1) This writ petition has been filed challenging various impugned letters issued by respondents 4 to 6 and for a consequential direction to respondents 4 to 6 to effect a Single Phase Service Connection to the flats constructed by the petitioner Company.
- (2) The petitioner is a Company involved in Real Estate and Infrastructure Development. The petitioner ventured into a Housing Project after purchasing huge extent of land and applied for grant of approval for group development for residential-cum-commercial usage. The petitioner also executed necessary Gift Deeds in favour of the authority. The Planning Permission was granted in favour of the petitioner on 09.05.2014 for construction of residential buildings comprising of 8 blocks. The petitioner constructed Single Bedroom and Double Bedroom Apartments and attempted to make it as an affordable Housing Project. The petitioner also applied for Single Phase Service Connection for the Apartments with a load capacity not exceeding 3 KW or 3.3 KVA.
- (3) The petitioner initially completed construction in 6 Blocks with 604 Dwelling Units including the common area by providing for 6 Distribution Transformers. It is claimed by the petitioner that respondents 4 to 6 are providing a load capacity of 750KVA to cater to 604 Apartments.

(4) The further case of the petitioner is that they completed the construction in the remaining 2 Blocks also with 232 Dwelling Units. The petitioner approached respondents 4 to 6 to effect Single Phase Service Connection for the 232 Dwelling Units. The respondents 4 to 6 refused to provide Single Phase Service Connection and insisted for providing only Three Phase Service Connection and directed the petitioner to allot space for establishment of a Sub-station since the total demand exceeds 5MVA / 150KW. Aggrieved by the same, the present writ petition has been filed before this Court.

(5) When the writ petition was pending, the petitioner filed an Undertaking Affidavit on 24.07.2020 by undertaking that they will acquire 400 sq.m. of land approved by the respondents at the petitioner's cost and expenses for establishing a Sub-station. This Affidavit of Undertaking was taken on file by this Court on 30.07.2020. Subsequently, a Memo was filed by the petitioner on 14.08.2020, withdrawing the Undertaking Affidavit and the learned counsel appearing for the petitioner stated that the petitioner will contest the writ petition on merits. This Court accepted the said Memo and posted the case for final hearing.

(6) The 4th respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

10 The petitioner had obtaining planning permission for construction of stilt + 4 floors of 8 blocks and ground + 3 Floors of 4 blocks totaling 12 blocks with a totaling of 1260 Nos. dwelling units with shops at Paruthipet Village, Avadi, Chennai. Out of the 1260 Nos. dwelling units, electricity service connections were already effected to 604 Nos. dwelling units and the balance 656 Nos. dwelling units are to be electrified further. The consumer now requests single phase electricity service connections to the 232 Nos. dwelling units. The existing 110/11KV Ayapakkam sub-station near to the project site has already reached the peak demand and the sub-station capacity is not sufficient to cater the need of the entire project site. The other sub-station located in Tiruverkadu area also reached its peak demand and cannot supply the project of the petitioner. The only way to feed the petitioner's project site is by establishing 33/11KV sub-station in the project premises.

11 I further respectfully submit that the connected load details claimed by the petitioner are incorrect and imaginative. The dwelling units of the petitioner's project have the electrical wiring and points for more than 4KW of loads. As per the Regulation 26 of the said Tamil Nadu Electricity Distribution Code stated above, only 3 phase electrical connections can be effected to the said dwelling units and on effecting the 3 phase service connections, the total combined load of the project would be more than 5MVA.

12 I respectfully submit that as per the TANGEDCO's proceedings issued vide [Per] CMD Proceedings No.481, dated 11.09.2017, the total demand of the project works out to 6.48 MVA. Therefore, it is respectfully submitted that the petitioner has to earmark at least 400 SQM of land for establishment of 33/11 KV Sub-Station in their project premises.

13 I respectfully submit that the already effected 604 Nos. service connections prior to the issuance of the proceedings No.481, dated 11.09.2017 in 1289.2KW which is the sum of actual registered load of the flats/units in the said residential development. After implication of CMD Proceedings No.481 dated 11.09.2017, to adopt uniform assessment depending on the size of unit, the demand assessment for 232 Nos. domestic service connections for Block D&F works to 1568.8KW and the future anticipated load for the balance dwelling units in Block A,B,C and G works out to 2975.2 KW. The sum of already service effected load prior to issuance of Proceedings No.481 dt.11.09.2017 and now proposed load including future load as per standardized loads [Per] [CMD] Proceedings works out to 5833.2KW or 6.48MVA. Hence, the demand estimation arrived is in compliance with load prescribed for each flats/units and as such the contention of the petitioner that the demand assessment is contrary to the proceedings of the 1st respondent is incorrect.

14 It is respectfully submit that while assessing the connected load and the total demand details, the field officials shall consider the loads that will be incident in the near future and that of the existing loads in the premises of the applicant insofar as the

building projects with 1BHK/2BHK flats are concerned on-site inspection of the flats/dwelling units, the Purchaser/occupier of the already sold units have 2 Nos. air conditioned units with load of 3 KW or 4.5 KW Air Conditioners and Geyser with 2 KW loads apart from other basic general loads such as Lighting loads, Fridge, TV, Washing machine, heating appliances, water purifier, micro oven, induction stove etc. Therefore, it is stated that on occupation of the flat owners, the actual load will be doubled as against their applied load exceeding 4KW for which only 3 phase service connection will be required in future and TANGEDCO cannot refuse 3 phase connection to any individual applicant at later date for conversion of single phase into three phase.

15 I respectfully submit that if single phase service connections were effected to all dwelling units without obtaining land for establishment of 33/11 KV Sub-station, the TANGEDCO would not be in the position to effect 3 phase supply to the individual occupants in future."

(7) Mr. R. Bharath Kumar, learned counsel appearing on behalf of the petitioner submitted that the petitioner had applied for a Single Phase Service Connection and in fact, after completion of the construction of the first 6 Blocks containing 604 Dwelling Units and for the common area, the respondents provided Single Phase Connection. The learned counsel submitted that 6 Distribution Transformers were located within the Project Site and the load capacity towards the 604 Dwelling Units only works out to 0.75 MVA. Therefore, the respondents ought to have considered the request made by the petitioner after completion of the remaining 2 Blocks only for providing Single Phase Service Connection to the balance 232 Dwelling Units.

(8) The learned counsel brought to the notice of this Court, the proceedings dated 11.09.2017 which deals with the provision of space for establishment of Sub-station by the Developers of the Group Housing. The learned counsel further submitted that Clause 5[d] of the proceedings alone will apply to the petitioner and whereas, the respondents are insisting to apply Clause 5[c]. The learned counsel submitted that the respondents will have to treat the 232 Dwelling Units in the same manner as they treated the 604 Dwelling Units for which, Single Phase Service Connection was given and the respondents cannot anticipate a future demand and compel the petitioner to

provide for a space for establishment of a Sub-station on the ground that the total demand will exceed 5MVA.

(9) The learned counsel for the petitioner submitted that the TANGEDCO has come up with the subsequent proceedings dated 31.07.2020 and the earlier proceedings have been altered to the effect that the space for establishment of a Sub-station is mandatory where the total demand of the Project exceeds 5MVA or the total area of construction is 30,000 sq.m. and above. The learned counsel submitted that the proceedings itself clarify that it will not apply where the Planning Permission has been obtained before 29.01.2020. The learned counsel further submitted that the later proceedings will not apply to the petitioner since the Planning Permission was obtained in the year 2014 itself. The learned counsel appearing for the petitioner, therefore, submitted that the respondents cannot insist for a space for establishment of a Sub-station as a pre-condition for providing electricity connection for the remaining 232 Dwelling Units.

(10) Per contra, Mr.P.R.Dhilip Kumar, learned Standing counsel appearing on behalf of the respondents submitted that the existing Sub-station near the Project Site has already reached its peak demand and similarly, the other Sub-station located in Tiruverkadu, has also reached its peak demand and therefore, the respondents are not in a position to cater to the needs of the entire Project Site. The learned counsel submitted that the only way to feed the petitioner's Project Site was by establishing a Sub-station in the Project premises. The learned counsel heavily relied upon the contentions raised in the counter affidavit and submitted that the petitioner has to earmark at least 400 sq.m., of land for establishment of a Sub-station and the Department will have to necessarily take into consideration, the anticipated future demand and it cannot confine itself to the demand made at the time of making the application. The learned Standing counsel submitted that the establishment of a Sub-station is very essential to cater to the needs of the Dwelling Units and it will also help the Department to effect 3 Phase Service Connection when it is demanded in future. The decision was taken by the respondents by taking into account the safety of all those who are going to occupy the Dwelling Units and the Department does not want any mishap to take place as and when the demand increases, considering the size of the Project.

(11) This Court has carefully considered the submissions made on either side and the materials available on record.

(12) There is no dispute with regard to the fact that the petitioner had applied for Single Phase Service Connection for

all the Dwelling Units and the petitioner assessed the total demand / load not to exceed 5MVA. The petitioner, initially completed 6 Blocks which contained 604 Dwelling Units and the respondents effected Single Phase Service Connection for all the 604 Dwelling Units and common areas by providing 6 Distribution Transformers within the Project Site.

(13) It will be relevant to take note of Regulation 29 of the Distribution Code, 2004, which deals with the requirement to put up the Service Lines. Regulation 29[12][ii] deals with providing space for establishment of a Sub-Station/Switching Station in places of Group Housing, where the total demand exceeds 5MVA.

(14) A careful reading of the counter affidavit filed by the 4th respondent shows that the existing two Sub-stations have already reached their peak demand and they cannot cater to the need of the Project Site. The officials of the Department on assessing the Dwelling Units and examining the electrical wiring and the electrical points given to each Dwelling Unit, have come to a conclusion that only a 3 Phase Electrical Connection can be effected. Therefore, while issuing the impugned proceedings dated 11.09.2017, the respondents assessed the total demand of the Project as 6.48 MVA. Therefore, they insisted the petitioner to earmark at least 400 sq.m. of land for establishment of 33/11KV Sub Station in the Project premises. The respondents thought that this Sub-station will be required since they also took into consideration, the future anticipated load.

(15) The petitioner has filed a rejoinder to the counter filed by the 4th respondent and stated that the TANGEDCO cannot consider the future demands at this point of time and that cannot be a ground for not processing the applications submitted by the petitioner. It is also stated that the electrical infrastructure provided in the Project will only cater to Single Phase Service Connection and therefore, the respondents cannot insist for a 3 Phase Service Connection and thereby, force the petitioner to provide space for establishing a Sub Station.

(16) The petitioner initially had made an offer to acquire 400 sq.m., of land approved by the respondents at the petitioner's cost and expense for establishing the Sub-station. An Affidavit of Undertaking was also filed before this Court to that effect and the petitioner undertook to acquire the lands within one year and later, transfer the same to TANGEDCO by way of a Gift Deed. However, the petitioner, later thought it fit to withdraw the Affidavit of Undertaking.

(17) It is important to bear in mind that the petitioner, after completion of the Project, will move out of the Site and thereafter, those who are residing in the Dwelling Units will have to manage the show. The respondents have, therefore, rightly taken into consideration the future anticipated load also. When some of the persons in the Dwelling Units demand for a 3 Phase Service Connection, the respondents must be in a position to provide the same and therefore, necessary provision must be made for the future anticipated load. This is more so, considering the size of the Project which will contain 1260 Dwelling Units. The respondents have also taken a very categorical stand that the available Sub-stations have already reached their peak demand and they cannot supply for the entire Project Site. This Court does not find any illegality or violation of the Regulations in the decision taken by the respondents. The respondents anticipated that the total demand of the Project including the future anticipated load works out to 6.48 MVA and therefore, the respondents have rightly directed the petitioner to provide for space to establish a Sub-station. This is a requirement under Regulation 29[12][ii] of the Tamil Nadu Electricity Distribution Code, 2004.

(18) In view of the above discussion, this Court does not find any ground to interfere with the impugned letters issued by respondents 4 to 6 and the petitioner is directed to cooperate with the respondents in getting a Sub-station established to cater to the needs of the Dwelling Units in the Project Site.

(19) In the result, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-

सत्यमेव जयते
Assistant Registrar

True Copy

Sub-Assistant Registrar

WEB COPY

To

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TANGEDCO, Anna Salai,
Chennai 600 002.

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TANGEDCO, Chennai.

+1 CC to Mr.R.Bharath Kumar, Advocate sr 28211.
+1 CC to Mr.P.R.Dhilip Kumar, advocate sr 28230.

WP.No.8171/2020

PP(CO)
SP(07/09/2020)

सत्यमेव जयते

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