IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.8293 of 2020
and
WMP Nos.9937 & 9938 of 2020

R.Vijayalakshmi ... Petitioner

vs.

1. Superintending Engineering
CEDC/Central,
Vallurvarkottam,
Chennai - 600 034

2. Assistant Engineer,
Operation & Maintenance,
Mylapore East,
Chennai - 600 004 ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of disconnection in Cr.No.A6/O&M/Mylp-East/CGRF/O&M/223/ 2020 dated 08.06.2020 passed by the Assistant Engineer / the 2nd respondent herein as unconstitutional, illegal and unlawful by calling for the records of the same, by way of issuance of a Writ of Certiorarified Mandamus or by any other writ, order or direction in the nature of a writ, with a consequential direction to the 1st respondent herein to conduct a fresh enquiry by affording the opportunity of being heard after hearing all the necessary parties concerned as guaranteed under the Constitution of India.

For Petitioner : Mr.P.P.Vikram

For Respondents : Mr.PR.Dilipkumar
Standing Counsel

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ORDER

This writ petition has been filed challenging the impugned order of disconnection passed by the 2^{nd} respondent and for a consequential direction to conduct a fresh enquiry by affording an opportunity to the petitioner and thereafter pass fresh orders.

2.The case of the petitioner is that the petitioner is the owner of the property by virtue of a Will which is said to have been executed in favour of the petitioner by her father on 04.08.2013. There was a dispute regarding the property between the petitioner and one Rajalakshmi, who is the sister of the petitioner. The said Rajalakshmi had submitted a complaint before the Consumer Grievance Redressal Forum [CGRF] belonging to the Electricity Department on the ground that the petitioner has used a fake property tax demand card and has obtained electricity connection.

3.It is further seen from the records that the CGRF has passed on order dated 13.02.2020, after hearing the parties directing action to be taken against the petitioner for submitting a fake property tax demand card. Pursuant to the orders passed by CGRF, the 2^{nd} respondent issued a notice to the petitioner dated 21.03.2020, calling upon the petitioner to submit the original property document and also to give her explanation with regard to the submission of fake property tax demand card. On receipt of this notice, the petitioner has submitted a reply through her counsel by a reply notice dated 04.06.2020. On receipt of the reply notice, the impugned order came to be passed by the 2^{nd} respondent on 08.06.2020. Aggrieved by the same, the present writ petition has been filed before this Court.

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4.The learned counsel for the petitioner submitted that the impugned order has been passed by the 2^{nd} respondent without affording any opportunity. The learned counsel further submitted that the petitioner is claiming ownership over the property through a Will executed by her father on 04.08.2013. The learned counsel further submitted that even the earlier order passed by the CGRF was not served on the petitioner and the entire action has

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been taken behind the back of the petitioner. Therefore, the learned counsel submitted that the impugned order passed by the 2nd respondent is an illegality on the ground that it violates the principles of natural justice.

5.Mr.P.R.Dilipkumar, learned Standing Counsel appearing on behalf of the respondents 1 and 2 submitted that the petitioner has approached this Court with unclean hands. The learned counsel further submitted that the petitioner has not even impleaded the necessary party in this writ petition and the order passed by CGRF has also been concealed. The learned counsel submitted that a fake property tax receipt card was submitted by the petitioner and pursuant to the directions given by CGRF, action was initiated by the 2nd respondent and sufficient opportunity was also given to the petitioner. Therefore, the learned counsel submitted that there are absolutely no merits in the present writ petition.

6.Mr.R.Sreedhar, advocate appeared for S.Rajalakshmi who is the relative of the petitioner and the one who had given the complaint to CGRF.

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

8.The petitioner is claiming ownership over the property by virtue of a Will dated 04.08.2013, said to have been executed by her father. Admittedly, the petitioner has not taken any steps to get this Will probated. The complaint was given before CGRF on the ground that the petitioner has submitted a fake property tax demand card. The complaint was that the property stands in the name of the relative and the petitioner has managed to manipulate the property tax demand card, as if, it is standing in the name of the petitioner. When the complaint was given to the CGRF, an order was passed by CGRF on 13.02.2020. This order has not been filed in the present writ petition. An attempt was made by the learned counsel for the petitioner to put forth a submission, as if, the order passed by CGRF was not even served by the petitioner. This submission has to be rejected outright since this

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stand has been neither taken in the reply notice dated 04.06.2020 nor in the affidavit filed in support of the writ petition.

9.It is pursuant to the orders passed by CGRF, the 2nd respondent has proceeded to issue a notice to the petitioner asking her to submit the original property document and seeking for her explanation regarding the fake Property tax demand card. The petitioner instead of giving a reply, has chosen to issue a reply notice through her counsel. It is seen from the reply notice that the petitioner has taken a stand to the effect that the property originally belonged to her father and she became the owner of the property by virtue of a Will executed by him. It is also stated in the reply notice that due to the Covid situation, the petitioner is not in a position to attend for the enquiry in person. Therefore, the petitioner had sought for withdrawal of the notice. Surprisingly there is not even an iota of explanation with regard to the fake property tax demand card that is said to have been submitted by the petitioner before the electricity department.

10.The 2nd respondent has considered the reply given by the petitioner through her counsel and has rightly come to the conclusion that the petitioner has not given any explanation with regard to the fake corporation property tax card. If the petitioner has not taken any steps to probate the Will said to have been executed by her father, it is not known as to how the petitioner can have a property tax assessed in her name and how she can have a property tax demand card in her name.

11.It must be borne in mind that the 2nd respondent is only a administrative authority, who is not dealing with the inter se dispute between the parties. It is not necessary that in every case where an order is passed an opportunity of personal hearing must be given by the authority. It depends upon the nature of enquiry conducted by an authority. In this case, the 2nd respondent was satisfied that the petitioner was not able to give a proper explanation in her reply notice as to how she submitted a property tax demand card in her name. This position cannot be improved even if the petitioner had been

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given an opportunity to be heard in person. Insisting for such a personal hearing in this case will only be a useless formality.

12.In the considered view of this court, the 2nd respondent has passed the order by giving sufficient opportunity to the petitioner and this Court does not find any illegality in the orders passed by the 2nd respondent. That apart, the petitioner has not approached this Court with clean hands since she has neither filed the order passed by CGRF nor has she added the contesting party as a respondent. A clear attempt has been made to snatch an order behind the back of the contesting party. This Court does not find any merits in the present writ petition.

In the result, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Superintending Engineering
   CEDC/Central,
   Vallurvarkottam,
   Chennai - 600 034.

2. The Assistant Engineer,
   Operation & Maintenance,
   Mylapore East,
   Chennai - 600 004.

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