

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 11822 of 2017

M. Rajamani

...Petitioner

-VS-

1. The Assistant Electrical Engineer,
Tamil Nadu Generation and Distribution Corporation,
Coimbatore Electricity Distribution Circle/North/South,
Thayanur - 641 113.

2. Tmt. Muthulakshmi

3. Tmt. Soundar Jothi

... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent herein in K.No.Vu.Mi.Po/The/Thaya/Ko.Pu.Vi.Thi/A.No.215/16-17 dated 19.12.2016 and quash the same and consequently direct the 1st respondent to give electricity connection for the petitioner's property situated at Survey Field No.348/2, Door No.1/9B, Kamaraj Nagar, Bujanganur Post, Selliyur Via, Kalapalayam Village, Mettupalayam Taluk, based on the petitioner's application dated 15.12.2016.

For Petitioner : Mr.G. Karthikeyan

For Respondents : Mr.M. Vijayameghanath
Standing Counsel [R1]

Mr.S.Rajmakesh [R2 & R3]

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ORDER

Heard Mr.G.Karthikeyan, learned counsel for petitioner, Mr.M.Vijayameghanath, learned Standing counsel for Electricity Board and Mr.S.Rajmakesh, learned counsel for 2nd and 3rd respondents.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner is challenging the proceedings of the 1st respondent dated 19.12.2016, by which, the 1st respondent has rejected the petitioner's application dated 15.12.2016 for

grant of separate electricity connection for the property comprised in survey field No. 348/2, Door No.1/9B, Kamaraj Nagar, Bujanganur Post, Selliyur via, Kalapalayam, Village, Mettupalayam Taluk.

4. A perusal of the impugned proceedings shows that the 1st respondent has assigned two reasons for rejecting the petitioner's application. Firstly, petitioner has not produced any house tax receipt, document standing in the name of the petitioner to establish his right over the property in question. The second reason being that the respondents 2 and 3 have filed a suit in O.S.No.33 of 2017 pending before the District Munsif Court, Mettupalayam and they have submitted objections for grant of Electricity connection.

5. The learned counsel for the petitioner would vehemently contend that the petitioner has filed a suit against the respondents 2 and 3 in O.S.No.126 of 2016 before the District Munsif Court, Mettupalayam, in which, I.A.No.402 of 2016 has been filed for grant of order of temporary injunction restraining the defendants/ respondents 2 and 3 herein from interfering with the petitioner's possession and enjoyment of the suit property and the Trial Court, by order dated 29.04.2016, granted an order of interim injunction and the same has been subsequently extended from time to time. It is not clear as to whether the interlocutory application is still pending and what is the stage of the suit. Therefore, the petitioner would contend that based on the order of injunction, 1st respondent ought to have granted electricity connection. However, the said contention cannot be accepted because the 1st respondent/Electricity Board is not a party to the suit. That apart, the respondents 2 and 3 have filed a suit in O.S.No.33 of 2017 wherein, the petitioner herein is the 1st defendant and her son is the 2nd defendant and daughter one Amuthavalli W/o late Chinnasamy is the 3rd defendant. The respondents 2 and 3 prayed for a decree to demarcate and to fix the boundaries of the suit property in accordance with the title deeds of the plaintiffs and the revenue records and for a decree of permanent injunction restraining the defendants/petitioner herein and 2 others from altering the physical features of the suit property specifically house bearing door No.1/9B which is the very same property, for which the petitioner now seeks for Electricity service connection. That apart, it appears that the other civil proceedings, which may be of relevance to the property in question or may pertain to other properties. Thus, considering the serious civil dispute between the parties, no direction can be given to the 1st respondent to grant Electricity service connection to the property in question. Therefore, the 1st respondent was well justified in rejecting the request made by the petitioner by passing the impugned order.

6. For such reason, the writ petition stands dismissed. however, liberty is granted to the petitioner to file an

appropriate interlocutory application in the pending suit, if she is advised and seek for appropriate interim directions regarding electricity service connection, which can be considered by the Civil Court in accordance with law. However, in the event if the suit has been finally disposed of, it is open to the petitioner to workout his remedy in accordance with law. No costs.

Sd/-
Assistant Registrar(Cj conf)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Electrical Engineer,
Tamil Nadu Generation and Distribution Corporation,
Coimbatore Electricity Distribution Circle/North/South,
Thayanur - 641 113.

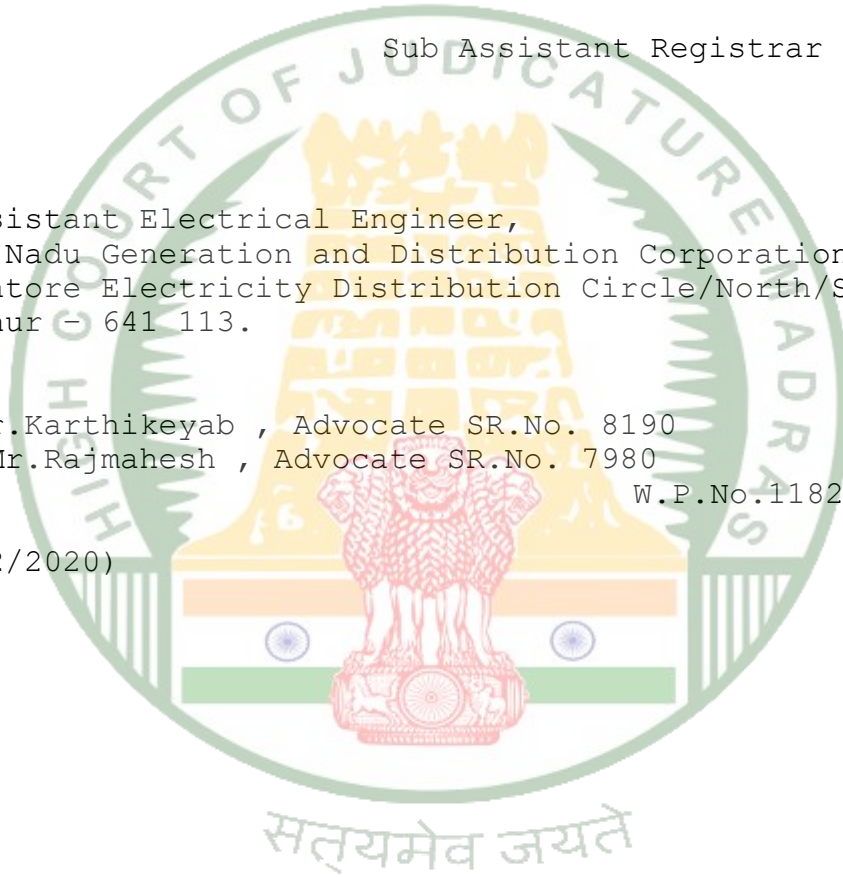
+1cc to Mr.Karthikeyab , Advocate SR.No. 8190

+2ccs to Mr.Rajmahesh , Advocate SR.No. 7980

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A.SK(26/02/2020)



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