



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7829 of 2020

and

W.M.P (MD)Nos.7307 & 7308 of 2020

WEB COPY

1.D.Baskararajan

S/o.A.C.Duraiswamy Nadar,
A.C.D. Rice Mill,
Door No.8, Nallamuthu Pillai New Road,
Mahalipatti, Madurai - 625 001

2.D.Prabhakar

... Petitioners

Vs.

1.The Superintending Engineer

TANGEDCO,
Madurai Metro
Race Course Road,
K.Pudur, Madurai.

2.The Executive Engineer (South)

TANGEDCO,
Madurai Metro,
Power House Road,
Subramaniapuram,
Madurai - 625 001.

3.The Assistant Electrical Engineer (South)

Distribution/ TANGEDCO
Madurai Metro
Power House Road
Subramaniapuram,
Madurai - 625 001.

4.V.K.Dharamaraj

5.Nallamuthu Pillai Trust

Rep. by its Trustee Thiru V.Nallamuthu @ Manohar,
Door No.10, Kiruthumal Nathi Road
Madurai Town, Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders of the third respondent dated 19.02.2020 as communicated in Letter K.No.Vu.Mi.Va.Pa/Ma.Ka.Va.Vu/Ko.Kattu/ A.No.39/20 dated 07.03.2020 quash the same and consequently direct the respondents 1 to 3 herein



to disconnect and remove the electricity service connection in SC No.033-005-2358 (TF-VI) granted to the fourth respondent in the leasehold premises of petitioner in New TS No.26/1, 2 comprised in TS No.2104/1, 2, 3 bearing Door No.8, Present Ward No.58, Survey Ward No.2, Keeraithurai Main Road, Mahalipati, Madurai.

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For Petitioner : Mr.S.Srinivasa Raghavan
For Respondents 1 to 3 : Mrs.S.Srimathy,
for Mr.S.M.S. Johnny Basha
Standing Counsel for TNEB

For 4th Respondent : Mr.N.S.Karthikeyan

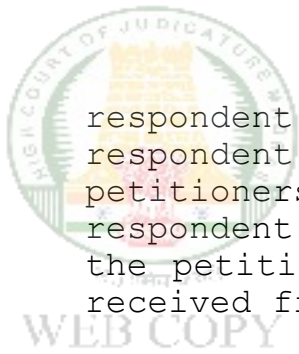
O R D E R

Heard the learned counsel appearing for the writ petitioners, learned Standing counsel appearing for TANGEDCO / respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2.The writ petitioners are the lessees of the property bearing Door No.8, Nallamuthu Pillai New Road, Mahalipatti, Madurai - 625 001. The property originally belonged to fifth respondent-Trust. The fifth respondent-Trust had leased out the vacant land in favour of the petitioners' father way-back in the year 1962. The petitioners' father is said to have put up a super-structure thereon. The petitioners' father also obtained an independent electricity service connection for the said premises. The petitioners father has been running a Modern Rice Mill in the said premises. The petitioners' father is no-more. The fifth respondent lessor wanted the petitioners to vacate the said property. The petitioners, who apprehended that they may be dispossessed unlawfully, filed O.S.No.356 of 2010, on the file of II Additional Subordinate Court, Madurai seeking the relief of Permanent Injunction restraining the fourth respondent as well as the fifth respondent from dispossessing them except by following the due process of law. The suit was decreed on 12.08.2016. As on date, the said injunction decree is holding good.

3.In the meanwhile, the fourth respondent had purchased the property from the fifth respondent-Trust. The fourth respondent had since filed RCOP Nos.230 and 242 of 2017, on the file of District Munsif Court(Rent Controller), Madurai against the petitioners herein, for determination of fair rent. The said Rent Control Petitions are also still pending.

4.In the mean-while, the fourth respondent applied to the third respondent for providing electricity service connection. The petitioners are said to have raised their strong objection. In the face of the objection raised by the petitioners herein, the third



respondent granted electricity service connection to the fourth respondent by installing a pole and also a meter. When the petitioners raised issue with the third respondent, the third respondent by the impugned communication, dated 07.03.2020, informed the petitioners that they have done so, based on the legal opinion received from the Government counsel.

5.This is under challenge in this writ petition. Heard the learned counsel appearing on either side.

6.The learned counsel appearing for the fourth respondent would submit that the fourth respondent had purchased an extent of land which includes the property leased out in favour of the petitioners. He claims that an extra portion was also purchased by the fourth respondent and therefore, the petitioners cannot question the obtaining of electricity service connection by the fourth respondent.

7.Since the factum of lease is not in dispute, I posed a direct question to the learned counsel for the fourth respondent as to whether the electricity service connection obtained by him is within the leased out premises or outside the same. The matter was passed over and after getting instructions, the learned counsel for the fourth respondent submitted that partly the new connection falls within the leased out premises. If that be so, I fail to understand as to how the fourth respondent dared to give electricity service connection. The injunction decree is operating in favour of the writ petitioners and against the private respondents herein. In-fact, in the impugned communication, dated 07.03.2020, this position has been taken note of by the authorities. But the final paragraph makes a very strange reading, the third respondent concludes that he had obtained legal opinion and based on the same, electricity service connection was provided.

8.The role of a Law Officer is to guide the Officials correctly. He cannot mislead them. In this case, the property in question has been taken on lease by the petitioners' family some 50 years ago. The possession of the property by the petitioners is beyond dispute. They have also obtained a decree restraining the lessors from interfering with their possession except by following due process of law. The fourth respondent who had purchased the property, had also initiated RCOP proceedings against the petitioners herein. In this back-ground, if a pole is installed in the premises/land in the possession of the petitioners, it would certainly amount to interference with their rights it would also a blatant violation of the decree, dated 12.08.2016, made in O.S.No.356 of 2010, on the file of the Principal Subordinate Court, Madurai. Therefore, I have no hesitation to quash the impugned communication.



9. Accordingly, the impugned communication stands quashed. The respondents 1 to 3 are directed to remove the petition mentioned electricity service connection granted in favour of the fourth respondent, without any delay.

10. At the same time, I have to take note of the fact that the petitioners are paying only a part amount by way of rent. The fourth respondent had filed RCOP No.242 of 2017 seeking determination of fair rent. The District Munsif-Cum-Rent Controller, Madurai Town, is directed to dispose of the said RCOP on merits and in accordance with law, within a period of eight months from the date of receipt of a copy of this order. The first respondent is directed to take note of the conduct of the third respondent and take action, as he deems it fit and proper.

11. This Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

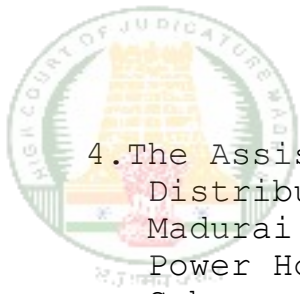
To

1. The District Munsif cum Rent Controller,
Madurai Town.

2. The Superintending Engineer
TANGEDCO,
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Race Course Road,
K. Pudur, Madurai.

3. The Executive Engineer (South)
TANGEDCO,
Madurai Metro,
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Subramaniapuram,

<https://hcservices.hcscourts.gov.in/hcscs/001>



4.The Assistant Electrical Engineer (South)
Distribution/ TANGEDCO
Madurai Metro
Power House Road
Subramaniapuram,
Madurai - 625 001.

+2 CC to Mr.S. SRINIVASA RAGHAVAN, Advocate (SR-16263[F] dated
08/09/2020)

W.P (MD) No. 7829 of 2020
07.09.2020

VB (17.09.2020) 5P 7C