



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8119 of 2020

and

W.M.P.(MD)Nos.7538 to 7540 of 2020

WEB COPY

Best Agregates

Rep by its Managing Partner,
S.Lakshmi,
Survey Nos.607/2, 608/2,
Karudayampalayam Village,
Panappalayam,
Nedungur Post,
Aravakurichi Taluk,
Karur District.

... Petitioner

Vs.

1.The Superintendent Engineer,
TANGEDCO,
Karur.

2.The Executive Engineer,
O&M Rural,
Karur.

3.The Assistant Engineer,
O&M, TANGEDCO,
K.Paramathi,
Karur.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records of the third respondent by his proceedings Na.Ka.No. U.Mi.po/ E.Ka/ Ka.Paramathi/ Ko.kattu/ A.No.52, dated 09.03.2020 and quash the same and direct the third respondent to provide service connection to survey No.607/2 and 608/2, Karudayampalayam, for the petitioner to commence her business.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For R1 to R3 : Mrs.M.Rajeswari
for Mr.S.M.S.Johny Basha
Standing Counsel

**ORDER**

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents.

2.The petitioner states that she had entered into a partnership agreement with one Kritika in the year 2016 and she had started a manufacturing unit in the name and style of Best Agregates. The petitioner had entered into lease agreement with her husband Rajesh Kumar in respect of Survey Nos.607/2 and 608/2. Put together they come to 8.33 acres. The petitioner states that she had obtained permission for establishing M-Sand Industry in the said two survey numbers. The petitioner applied for independent electricity connection. The petitioner's request was rejected by the impugned order dated 09.03.2020 passed by the third respondent. In the impugned order, it has been mentioned that the petitioner's husband had suffered an assessment order in a energy theft case and that it is still pending. It is further stated that since the petitioner's husband has not remitted the entire assessment charges, the petitioner's request was rejected. This order is put to challenge in this writ petition.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4.Per contra, the respondents have also filed a counter affidavit and the learned standing counsel reiterated the objections projected therein.

5.I carefully considered the rival contentions and went through the materials on record.

6.The foremost defence taken by the standing counsel in support of the impugned order is anchored on regulation 17(9) of the Tamil Nadu Electricity Supply Code, 2004, which reads as under:-

"(9).In case of service connections in a premises, which have been disconnected/dismantled for default in payment of dues whatsoever and if such service connections are to be reconnected or new service connections are to be obtained by other persons in such premises either by purchase or transfer or lease basis, the distribution licensee shall reconnect such service connections or effect new service connections, as the case may be, in such premises only after payment of dues attributed to such premises by the applicant."



7. Now the only question that arises for my consideration is whether the aforesaid regulation can be applied to the case on hand or not. The aforesaid regulation will apply only if it is shown that the petitioner has sought connection in respect of the very same premises, in which, the petitioner's husband also enjoyed service connection. It is seen from the impugned order that the petitioner's husband's service connection was in respect of survey No.607/1. The petitioner, on the other hand, had put up her premises in Survey No.607/2 and 608/2. It is true that the land originally belonged to the petitioner's husband. But then, the aforesaid regulation speaks of service connection in the same premises. There is a clear distinction between premises and land as such. The petitioner had put up separate premises in Survey No.607/2 and 608/2.

8. The learned Standing Counsel would state that this Court ought not to show indulgence to the petitioner, when her husband is in arrears and is yet to fully pay the assessment charges levied. She also added that there is no physical segregation between the petitioner's premises and that of her husband.

9. Though the respondent may believe in the concept of Ardhanarishvara, in law the petitioner enjoys an independent and separate personality. If the petitioner has put up new premises and intends to start an independent business, she cannot be denied the benefit of service connection by citing the conduct of her husband.

10. I hold that the respondent have erred in applying regulation 17(9) of Tamil Nadu Electricity Supply Code to the case on hand. In this view of the matter, the order impugned in this writ petition is quashed. The respondents are directed to provide service connection to the premises of the petitioner located in the petition mentioned survey numbers subject to the petitioner fulfilling the other formalities. The default committed by the petitioner's husband will not be put against the petitioner. The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

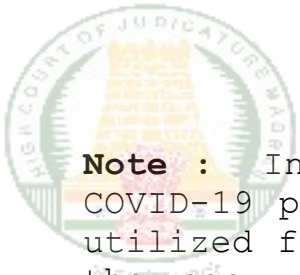
Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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 Superintendent Engineer,
TANGEDCO,
Karur.

2.The Executive Engineer,
O&M Rural,
Karur.

3.The Assistant Engineer,
O&M, TANGEDCO,
K.Paramathi,
Karur.

+1 CC to M/s.K.P.S. PALANIVELRAJAN, Advocate (SR-15649[F] dated 02/09/2020)

W.P. (MD) No.8119 of 2020
01.09.2020

SCR(CO)
TR(10.09.2020) 4P 5C