



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2020

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THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.13474 of 2020

and

W.M.P. (MD)No.11237 of 2020

S.Jayakudi

: Petitioner

Vs.

1.The Executive Engineer (Distribution),
Tuticorin (Rural) North,
Tuticorin District.

2.The Designated Engineer,
AE/O&M Rural North,
Tuticorin, Tuticorin District.

3.Anthony Micael

4.Anthony Francis

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in க.எண்.உ.மிபொ/வி/ஊ/வ/தூர்/கோ.தனி/அ.எண் 957/2020, dated 09.09.2020 passed by the 2nd respondent and quash the same as illegal and consequently to direct the respondent Nos.1 and 2 to provide the Electricity connection to the petitioner's dwelling house situated at No.11/184, T.Saveriyapuram, Melur Post, Tuticorin Taluk, Tuticorin District.

For Petitioner

:Mrs.Anbarasi
for Mr.Banuprasath

For R1 and R2

:Mrs.M.Rajeswari
for Mr.S.M.S.Johnny Basha

For R3 and R4

:Mr.S.C.Herold Singh

ORDER

(This petition was heard through the Video Conferencing)

This Writ Petition has been filed challenging the impugned order, dated 09.09.2020 passed by the second respondent rejecting

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the petitioner's application seeking for grant of electricity service connection for his house.

2.Heard Mrs.Anbarasi, learned Counsel for Mr.P.Banuprasath, learned Counsel for the petitioner and Mrs.M.Rajeswari, learned Counsel for Mr.S.M.S.Johnny Basha, learned Counsel for the respondents 1 and 2 and Mr.S.C.Herold Singh, learned Counsel for the respondents 3 and 4.

3.The petitioner has challenged the impugned order on the ground that by total non-application of mind and by not considering the documents produced by the petitioner in support of his possession over the property, the impugned order has been passed. It is the case of the petitioner that no sufficient opportunity was granted to the petitioner to place all the contentions before the second respondent. Therefore, according to the petitioner, principles of natural justice has been violated, while passing the impugned order.

4.The respondents 3 and 4 have filed counter affidavit and they claim that they are the representatives of St.Xavier Church. It is further stated that St.Xavier Church is the owner of the property, for which electricity service is sought for by the petitioner. The learned Counsel for the respondents 3 and 4 would submit that if at all, the matter is remanded back to the second respondent, the respondents 3 and 4 have to be heard before any final orders are passed on the application of the petitioner seeking for grant of electricity service connection.

5.The learned Standing Counsel for the respondents 1 and 2 would submit that since there are rival claims, the impugned order has been passed rejecting the application submitted by the petitioner seeking for grant of electricity service connection.

6.This Court has perused and examined the materials available on record. As seen from the impugned order, dated 09.09.2020 passed by the second respondent, the documents, which the petitioner has relied upon and has been filed in the typed set of papers along with this Writ Petition, has not been considered by the second respondent. The petitioner has filed the copy of sale deed, dated 04.05.2016, the copy of patta, dated 16.11.2017, the copy of the judgment in O.S.No.115 of 2009 on the file of the Subordinate Court, Tuticorin and copies of all other documents. Without considering the same, the impugned order has been passed by the second respondent rejecting the petitioner's application seeking for grant of electricity service connection.

7.The learned Counsel for the petitioner would submit that all the documents filed along with this Writ Petition were in fact filed before the second respondent. But, without considering the same, the impugned order has been passed by the second respondent.



8.As seen from the impugned order, dated 09.09.2020, as rightly contended by the learned Counsel for the petitioner, the documents filed in the typed set of papers filed along with this Writ Petition has not been considered by the second respondent. Further it is seen that the petitioner has not been given sufficient opportunity to place all his contentions before passing of the impugned order. Therefore, it is clear that principles of natural justice has been violated by the second respondent, while passing the impugned order.

9.For the foregoing reasons, the impugned order, dated 09.09.2020 passed by the second respondent, is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent shall pass final orders on the petitioner's application seeking for grant of electricity service connection in his name on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after hearing the petitioner and all necessary parties including the respondents 3 and 4 in this Writ Petition. It is made clear that if the respondents 3 and 4 produce any documents before the second respondent, the same shall also be considered, while passing the final order.

10.With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

Cmr

TO:

- 1.The Executive Engineer (Distribution),
Tuticorin (Rural) North,
Tuticorin District.
- 2.The Designated Engineer,
AE/O&M Rural North,
Tuticorin, Tuticorin District.

Order made in
W.P. (MD) No.13474 of 2020

04.12.2020

SSS (CO)

<https://hccr.courts.gov.in/cases/3P : 3C>