



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.15200 of 2020

A.Nagarajan

.. Petitioner

Vs.

The Assistant Engineer,
O&M/TNEB/TANGEDCO,
Srinivasa Nagar,
Tennur,
Trichy - 17.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to respondent proceedings made in intimation letter to the consumer, dated 14.10.2020, quash the same, and further direct him to provide electricity service connection to petitioner's premises situated at Trichy District, Trichy Taluk, 175, Geetha Nagar West, Trichy - 17, within a stipulated period as may be fixed by this Court.

For Petitioner
For Respondent

: Mr.Sakthivel for Mr.R.Sundar
: Mrs.Rajeswari for
Mr.SMS.Johnny Basha
Standing Counsel

ORDER

(This writ petition is heard through Video Conference)

This writ petition has been filed challenging the order dated 14.10.2020, issued by the respondent rejecting the application submitted by the petitioner for electricity service connection for his premises situated at Trichy District, Trichy Taluk, 175, Geetha Nagar West, Trichy - 17.

2.Heard Mr.Sakthivel, learned counsel for Mr.R.Sundar, learned counsel for the petitioner and Mrs.Rajeswari, learned counsel for Mr.SMS.Johnny Basha, learned Standing Counsel, appearing for the respondent.

3.It is the case of the petitioner that the aforementioned property belongs to the Public Works Department and is in his possession for the past 30 years. According to him, he desires to put up a tea shop in the aforementioned property. It is his case that he submitted an application with the respondent on 09.10.2020, seeking for electricity service connection for the aforementioned property. The respondent under the impugned order dated 14.10.2020, rejected the application of the petitioner on the ground that ownership document or tax receipts has not been produced by the petitioner. It is the case of the petitioner that he has produced



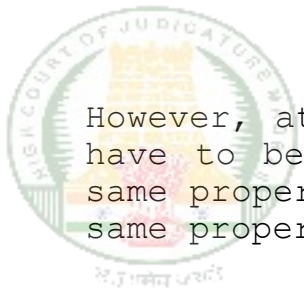
the family card and nativity certificate, which will reveal that the petitioner is in possession of the aforementioned property and hence, arbitrarily and by total non application of mind, the respondent has rejected his application under the impugned order. In such circumstances, this writ petition has been filed.

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4.The learned Standing counsel for the respondent on instructions would submit that the land belongs to the Highways Department and the petitioner does not have any legal right to obtain electricity service connection. It is also contended by the learned Standing Counsel that without obtaining no objection certificate from the Highways Department, the petitioner cannot obtain the electricity service connection for the aforementioned property. It is also submitted by the learned Standing counsel that the petitioner has not produced any title documents or has not produced any property tax receipts which would entitle to him to obtain electricity service connection. However, the learned counsel for the petitioner would submit that he has produced the family card and nativity certificate, which reveals the same address and would further submit that the petitioner is in possession of the property for more than 30 years. He also drew the attention of this Court to the impugned order dated 14.10.2020 and would submit that by total non application of mind, the respondent has rejected the application of the petitioner for electricity service connection.

5.The address mentioned in the family Court as well as the nativity certificate is the same address, for which the petitioner has applied for electricity service connection. Therefore, it is clear that the petitioner is in possession of the property at Trichy District, Trichy Taluk, 175, Geetha Nagar West, Trichy - 17. No documents have also been referred to in the impugned order dated 14.10.2020, which will reveal that the petitioner is not in possession of the aforementioned property. This is being the case, it can be inferred that the petitioner is in possession of the aforementioned property as seen from the family card as well as the nativity certificate. In the impugned order dated 14.10.2020, there is no reference to any rival claim over the property. Even though the learned Standing counsel for the respondent submitted before this Court that the land belongs to the National Highways Department, no proof for the same by way of documentary evidence has been placed before this Court. This being the case, the petitioner's right to obtain electricity service connection for the property and his occupation cannot be rejected. It is the case of the petitioner that he has been in possession of the property for more than 30 years. The family card and the nativity certificate also discloses the same address as the address for which the petitioner has sought for electricity service connection.

6.After giving due consideration to the aforementioned factors, this Court is of the considered view that electricity services for the petitioner will have to be granted.



However, at the same time, the interest of the respondent will also have to be protected, in case there are any rival claims over the same property or the Highways Department is having interest over the same property.

7.The reasons for rejection of the electricity service connection by the respondent is that the petitioner has not produced any title deed or property tax receipts to prove his ownership of the property. The petitioner has produced the family card as well as the nativity certificate, which will disclose that the petitioner is residing in the address, for which the electricity service connection is sought for. A person in lawful possession of the property is entitled for electricity service connection. This being the case, the interest of the petitioner will have to be necessarily protected that too when he seeks for obtaining electricity service connection.

8.For the foregoing reasons, this Court is of the considered view that the impugned order has been passed by the respondent arbitrarily and by total non application of mind.

9.In the result, the impugned order dated 14.10.2020, is hereby quashed. The respondent is directed to grant electricity service connection to the petitioner for his premises situated at Trichy District, Trichy Taluk, 175, Geetha Nagar West, Trichy - 17, on condition that the petitioner shall submit an indemnity bond in favour of the respondent, in case there is any rival claim over the same property or the Highways Department makes a claim over the same property, the respondent is at liberty to disconnect the electricity supply granted to the petitioner, pursuant to this order. The petitioner is directed to submit the indemnity bond within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the respondent shall grant electricity service connection to the petitioner for his premises at Trichy District, Trichy Taluk, 175, Geetha Nagar West, Trichy - 17, within a period of one week thereafter.

10.With the aforesaid direction, this writ petition is disposed of. No costs.

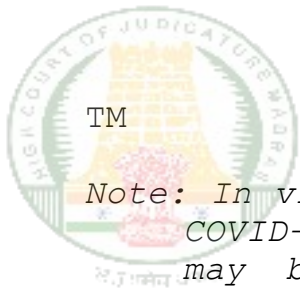
Sd/-

Assistant Registrar (CSII)

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/ /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

The Assistant Engineer,
O&M/TNEB/TANGEDCO,
Srinivasa Nagar,
Tennur,
Trichy - 17.

W.P (MD) .No.15200 of 2020
18.11.2020

MA (CO)
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