



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.17668 of 2015

and

M.P. (MD) No.1 of 2015

(Through Video Conference)

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P.Balasubramanian

... Petitioner

Vs

1) The Superintending Engineer,
TANGEDCO,
Sivanthipatti Road,
Maharaja Nagar,
Palayamkottai, Tirunelveli.

2) The Executive Engineer,
TANGEDCO,
Kadayanallur,
Tirunelveli District.

3) The Assistant Engineer / Junior Engineer,
TANGEDCO,
Sivagiri, Tirunelveli District.

4) P.Karuppasamy Pandian

... Respondents

** R4 impleaded vide Court Order dated 16.03.2020 in M.P. (MD) No.2 of 2015.*

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing these respondents to provide electricity service connection, to the petitioner for the 11 cents in S.No.617/4 in Sivagiri town, in Tirunelveli District, within a time frame, fixed by this Court.

For Petitioner : Mr.F.X.Eugene

For RR 1 to 3 : Mrs.M.Rajeswari for
Mr.S.M.S.Johnny Basha.

For R4 : Mr.T.S.R.Venkataramana

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the respondents to provide electricity service connection to the petitioner for the 11 cents in S.F.No.617/4 in



Sivagiri town, in Tirunelveli District, within a time frame to be fixed by this Court.

2. Mrs.M.Rajeswari, learned counsel appearing on behalf of Mr.S.M.S.Johnny Basha, learned standing counsel accepts notice for the respondents 1 and 2. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

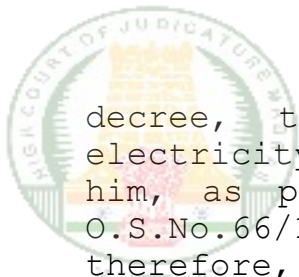
3. It is the case of the petitioner that he is in possession of the aforementioned property. According to him, he has filed a suit in O.S.No.66 of 1998 on the file of Judicial Magistrate cum District Munsif Court, Sivagiri against the President, Sivagiri Town Indira Congress, since the defendants in the suit disturbed his peaceful possession and enjoyment of the property.

4. It is the further case of the petitioner that the said suit came to be decreed in favour of the petitioner by judgment and decree dated 18.09.2010. It is his case that he applied for electricity service connection for the aforementioned property with the third respondent on 12.02.2015. It is also his case that, thereafter, he submitted a petition on 03.08.2015 with the second and third respondents seeking for the grant of electricity service connection. Along with the petition dated 03.08.2015, he also submitted an indemnity bond dated 19.02.2015 to the respondents 2 & 3. Till date, the petitioner's application for grant of electricity service connection has not been considered by the respondents. In such circumstances, this writ petition has been filed.

5. During the pendency of the writ petition, the fourth respondent has impleaded himself as a party respondent on the ground that he is the absolute owner of the property, for which, the petitioner is seeking the electricity service connection. According to him, Indian National Congress is the absolute owner of the aforementioned property and the fourth respondent as the President of the Indian National Congress, Sivagiri Unit is representing the affairs of Indian National Congress at Sivagiri. According to the fourth respondent, the patta also has been issued for the aforementioned property comprising at S.F.No.617/4 in Sivagiri town, in Tirunelveli District in the name of Indian National Congress.

6. Heard Mr.F.X.Eugene, learned counsel for the petitioner, Mrs.M.Rajeswari, learned counsel appearing on behalf of Mr.S.M.S.Johnny Basha, learned standing counsel appearing for the respondents 1 to 3 and Mr.T.S.R.Venkalaramana, learned counsel appearing for the fourth respondent.

7. Learned counsel for the petitioner drew the attention of this Court to the judgment and decree, dated 18.09.2010 passed in <https://hccseivicedcourts.gov.in/hccseivicedcourts> and submitted that despite the said judgment and



decree, the third respondent has not till date issued the electricity connection in the name of the petitioner. According to him, as per the judgment and decree dated 18.09.2010 passed in O.S.No.66/1998, the petitioner is in possession of the property and therefore, he is entitled for electricity service connection.

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8. The learned standing counsel appearing for the respondents 1 -3 would submit that the petitioner has not produced any revenue records to establish that he is in possession of the property for which electricity service connection is sought for. Therefore, according to her, the petitioner is not entitled for grant of electricity service connection.

9. Learned counsel for the fourth respondent would refer to the documents filed by the fourth respondent in his typed set of papers and would submit that the fourth respondent's possession over the property can be traced right from the year 1940 and the patta for the said property also stands in the name of Indian National Congress, for whom the fourth respondent represents.

10. Further, he would submit that the judgment and decree passed in petitioner's favour is only a decree passed in the injunction suit and the petitioner's title over the property has not been declared under the judgment and decree dated 18.09.2010 passed in O.S.No.66 of 1998 on the file of Judicial Magistrate cum District Munsif Court, Sivagiri. It is also contended by the learned counsel for the fourth respondent that the said judgment and decree dated 18.09.2010 passed by the Judicial Magistrate cum District Munsif Court, Sivagiri, is the subject matter of appeal filed by the fourth respondent before the Sub Court, Sankarankovil. Therefore, according to him, the legal right over the property is vested only with the fourth respondent and not with the petitioner and therefore, the petitioner is not entitled for grant of electricity service connection.

11. As seen from the affidavit filed in support of the writ petition and after hearing the rival submissions, it is clear that there are disputes between the petitioner and the fourth respondent with regard to the property for which the petitioner is seeking electricity service connection from the third respondent. No positive direction can be issued by this Court for the grant of electricity service connection in favour of the petitioner in view of the disputed questions of fact. It is for the third respondent to consider the same on merits and in accordance with law and it is for them to take a call on the feasibility of granting electricity service connection to the petitioner. Therefore, the only relief that could be granted by this Court is to direct the third respondent to consider the petitioner's request for electricity service connection for the property measuring 11 cents at S.F.No.617/4 in Sivagiri town, Tirunelveli District, on merits and in accordance with law after hearing the necessary parties.



12. For the foregoing reasons, this Court directs the third respondent to consider the petitioner's applications for grant of electricity service connection dated 12.02.2015 & 04.05.2015 for the property measuring 11 cents at S.F.No.617/4 in Sivagiri town, Tirunelveli District, and pass final orders on merits and in accordance with law after hearing the necessary parties, including the petitioner as well as the fourth respondent within a period of eight weeks from the date of receipt of a copy of this order.

13. With the aforesaid directions, this writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected M.P.(MD) No.1 of 2015 is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /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 Superintending Engineer,
TANGEDCO,
Sivanthipatti Road,
Maharaja Nagar,
Palayamkottai, Tirunelveli.
- 2) The Executive Engineer,
TANGEDCO,
Kadayanallur,
Tirunelveli District.
- 3) The Assistant Engineer / Junior Engineer,
TANGEDCO,
Sivagiri, Tirunelveli District.

+1 CC to M/s.F.X. EUGENE, Advocate (SR-22609[F] dated 24/11/2020)

W.P. (MD)No.17668 of 2015

23.11.2020

tp(CO)

KK(22.12.2020) 4P 5C