



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.12.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.5570 of 2015

and

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

(Through the Video Conferencing)

S.Rajalakshmi

... Petitioner

Vs

1.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation Limited,
Tirunelveli, Tirunelveli District.

2.The Junior Engineer,
(Operation and Maintenance), (Town),
Tamil Nadu Generation and
Distribution Corporation Limited,
Shanthi Nagar, Tirunelveli.

3.The Executive Officer,
A/m. Venkatachalapathy Thirukovil,
Tirunelveli, Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in his proceedings in க.எண்.இநிபொ/வி/நடு/சா.நகர் /கோ.கட் 6/ந.எண்.239/2015 dated 29.01.2015 and quash the same consequently direct the first and second respondents herein to provide Electricity connection in Door No.77/114, in S.F.No.163/1A, situated at Thimmarajapuram, Tirunelveli, within stipulated time to be fixed by this Court.

For Petitioner: Mr.S.Gokul Raj

For R-1 & R-2 : Mr.S.M.S.Johny Basha
Standing Counsel

For R-3 : Mr.H.Arumugam
Standing Counsel



ORDER

This writ petition has been filed challenging the order dated 29.01.2015 passed by the second respondent rejecting the petitioner's application for grant of electricity service connection to her property in Door No.77/114, in S.F.No.163/1A, situated at Thimmarajapuram, Tirunelveli, on the ground that the subject property belongs to the third respondent temple and the third respondent temple has also obtained an order of injunction restraining the Electricity Board from granting electricity service connection to any third party.

2. It is the case of the petitioner that she purchased a house in Door No.77/114 in S.F.No.163/1A, situated at Thimmarajapuram, Tirunelveli, to an extent of two cents of land from one Kabeer Masthan and others. According to her, she is entitled for grant of electricity service connection to her house. According to her, she submitted an application seeking for electricity service connection to her house, which has been rejected under the impugned order passed by the second respondent. Aggrieved by the same, this writ petition has been filed.

3. A counter-affidavit has been filed by the third respondent, wherein, it is stated that the subject property belongs to the third respondent temple and in O.S.No.745 of 1965 on the file of the District Munsif Court, Tirunelveli, a mandatory injunction was granted against the encroachers and the suit was decreed and according to them, the petitioner is also an encroacher.

4. In the counter-affidavit, the third respondent temple has also stated that they have filed a suit in O.S.No.122 of 2003 on the file of the I Additional District Munsif Court, Tirunelveli, against the Electricity Board, seeking for permanent injunction restraining them from issuing new electricity service connection to any third party without the consent of the temple and the said suit was decreed on 11.04.2005. According to the third respondent, when there is a permanent injunction granted in O.S.No.122 of 2003, the respondents 1 and 2, do not have any authority to grant fresh electricity service connection to any third party. According to them, the second respondent has rightly rejected the petitioner's application for grant of electricity service connection to her property.

5. Heard Mr.S.Gokul Raj, learned counsel for the petitioner, Mr.S.M.S.Johny Basha, learned standing counsel for respondents 1 and 2 and Mr.H.Arumugam, learned Standing counsel for the third respondent.



6. The learned counsel for the petitioner would contend that since the petitioner is in occupation of the property ever since 2002, she is entitled for grant of electricity service connection. According to her, the impugned order is not passed in accordance with Rule 27 of the Tamil Nadu Electricity Distribution Code, 2004 and there is no necessity for the petitioner to obtain 'No objection Certificate' from the third respondent temple for grant of electricity service connection since the petitioner is in occupation of the property ever since 2002.

7. Per contra, the learned counsel for the third respondent temple would submit that the judgment and decree passed in O.S.No.122 of 2003 on the file of the I Additional District Munsif Court, Tirunelveli, as well as the judgment and decree passed in O.S.No.745 of 1965 on the file of the District Munsif Court, Tirunelveli, has permanently injuncted the Electricity Board from granting electricity service connection to any third party without the consent of the third respondent temple. Therefore, according to him, the second respondent has rightly rejected the petitioner's application for grant of electricity service connection to her property.

8. The learned standing counsel for the respondents 1 and 2 would reiterate the submissions made by the learned counsel for the third respondent.

9. Admittedly, the judgment and decree passed in O.S.No.745 of 1965 on the file of the District Munsif Court, Tirunelveli and the judgment and decree passed in O.S.No.122 of 2003 on the file of the I Additional District Munsif Court, Tirunelveli, have attained finality as no appeal has been preferred against the said judgment and decrees.

10. Even though the petitioner was not a party in the said suits, when a judgment and decree has attained finality, the respondents 1 and 2, will have to necessarily abide by the judgment and decree passed in O.S.No.122 of 2003 as well as the judgment and decree passed in O.S.No.745 of 1965. The petitioner has not made any effort to implead herself as a party respondent either in O.S.No.122 of 2003 or in O.S.No.745 of 1965 and under the impugned order, the second respondent has only abided by the decision of the I Additional District Munsif Court, Tirunelveli in its judgment and decree passed in O.S.No.122 of 2003 wherein they have been permanently injuncted from granting any electricity service connection to any third party.

11. Therefore, this Court is of the considered view that the application for grant of electricity service connection to the petitioner has been rightly rejected by the second respondent under the impugned order.



12. For the foregoing reasons, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Assistant Registrar (RTI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

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.

+1 CC to M/s.S.GOKUL RAJ, Advocate (SR-25933[F] dated 17/12/2020)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-26295[F] dated 18/12/2020)

Order made in
W.P. (MD)No.5570 of 2015

Dated :
16.12.2020

SGS (CO)
NR (30/12/2020) 4P : 3C