



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.23706 of 2016

and

W.M.P. (MD)Nos.17042 to 17044 of 2016

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A.Packiam Edwin Jeyakumar

... Petitioner

Vs.

1.The Superintending Engineer,
TANGEDCO, Trichy.

2.The Executive Engineer,
Operation and Maintenance,
TANGEDCO, Lalgudi,
Trichy District.

3.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO, Lalgudi,
Trichy District.

4.The Assistant Engineer,
Operation and Maintenance,
TANGEDCO, Valadi Lalgudi,
Trichy District.

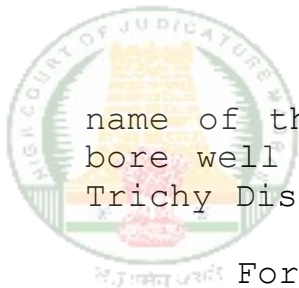
5.The Assistant Electrical Engineer,
Operation and Maintenance,
TANGEDCO, Valadi Lalgudi,
Trichy District.

6.The Assistant Accounts Officer,
Revenue Branch,
TANGEDCO,
Lalgudi-612 601.

7.Shanthi

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders of the sixth respondent in Lr.No.AAO/RB/LLI/F.Name Transfer/D.No.156/2014-2015, dated 17.06.2014 and letter in க.எண்.இமிபொ/இகா/வாலாத/கோ.கட்டு/அ.எண் 273 dated 21.11.2016 passed by the fourth respondent and quash the same and direct the respondents 1 to 6 to transfer service connection No.436 in the



name of the petitioner and provide electricity connection to the bore well situated in S.No.4/2, V.Duraiyur, Valadi Lalgudi Taluk, Trichy District.

For Petitioner

: Mr.M.Saravanan for
Mr.R.Subramanian

For R1 to R6

: Mrs.S.Srimathy
Speical Government Pleader
for Mr.S.M.S.Johny Basha

For R7

: No appearance

O R D E R

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for R1 to R6. Though seventh respondent has been served and her name appears in the cause list, there is no appearance on her behalf.

2.The petitioner's grandmother Savariammal and grandfather Samuel Udayar were cultivating the land in Survey No.4/2 in V.Duraiyur, Trichy District. It belonged to one Muthurengan Chettiar.

3.The case of the petitioner is that service connection (S.C.No.436) was obtained for the bore well dug in that survey number. It was in the name of Savariammal. According to the petitioner, Savariammal was also cultivating Survey No.3/1 and the service connection obtained for S.No.4/2 was extended to Survey No.3/1 also. Later, Savariammal purchased the land in Survey No.3/1 and she bequeathed the same in favour of her granddaughter. The petitioner purchased the land in Survey No.4/2 from the son of Muthurengan Chettiar vide registered sale deed dated 14.05.2013. From the petitioner's cousin, the seventh respondent had purchased the land some time in the year 2014. After such purchase, the seventh respondent applied to the EB Authorities and got the name changed in respect of S.C.No.436.

4.The petitioner states that this was done behind his back and notwithstanding his objections. In the mean while, the EB Authorities also issued proceedings dated 21.11.2016 alleging that he had been committing theft of energy by dishonestly abstracting from the said connection. In this writ petition, the order dated 17.06.2014, whereby, the connection was changed in favour of Shanthi as well as the order dated 21.11.2016 whereby compensation to the tune of Rs.1,41,040/- was levied, have been put to challenge.

5.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and wanted me to quash both the orders that have been impugned in the writ petition.



6.Per contra, the learned standing counsel appearing for TANGEDCO submitted that the connection stood only in the name of Savariammal grandmother of the petitioner. The said connection namely S.C.No.436 was obtained only for the bore well located in Survey No.3/1. Since the said connection happened to pass through Survey No.4/2 and since the pole was also installed on the said land, the petitioner had been illegally abstracting energy there from.

7.The learned Standing Counsel would state that since the agricultural connection is a free one, the act committed by the petitioner did not attract the notice of the EB officials. Only when the petitioner and his neighbor quarreled with each other, complaint was received against the petitioner and that is how, the theft of energy committed by the petitioner was noticed. According to the learned Standing Counsel, the petitioner does not have a scrap of material to sustain his contention. She called for dismissal of the writ petition.

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

9.The petitioner, having approached the Court for relief, is obliged to establish his case. There is absolutely nothing on record to indicate that S.C.No.436 was given only for the land in Survey No.4/2 and that the connection given for Survey No.3/1 was by way of extension. It is not in dispute that the connection stood in the name of Savariammal. At no point of time, Savariammal had owned the land in Survey No.4/2. Savariammal and her husband were only cultivating tenant in respect of Survey No.4/2. On the other hand, Savariammal was the owner of the land in Survey No.3/1. Therefore, there is considerable merit in the contention that connection was given for the land in Survey No.3/1. Shanthi, seventh respondent herein, had purchased the property from the legatee of Savariammal. Therefore, the respondents cannot be faulted for having made the name change.

10.Therefore, challenge in respect of the order dated 17.06.2014 fails. Now the question is whether the respondents are justified in levying the compensation amount of Rs.1,41,040/- on the petitioner herein.

11.The petitioner's counsel drew my attention to sale deed dated 17.04.2014, whereby, the petitioner purchased the land in Survey No.4/2 from M.Krishanan S/o. Muthurengan Chettiar. In the said sale deed, it is mentioned that the vendor had sold the property along with electricity connection bearing S.C.No.436. The petitioner's counsel also draws my attention to the field



inspection report submitted by the Junior Engineer, Operation and Maintenance, TANGDCO, Valadi, dated 28.05.2014. It is seen there from that the pole has been installed only in Survey No.4/2. Only in Survey No.4/2, there is a starter and a main switch board, from there, the connection goes to Survey No.3/1.

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12.The petitioner's counsel points out that if the inspecting official had found anything amiss, he would have definitely taken action on 28.05.2014 itself. They need not have waited for another 2 ½ years to allege theft of energy.

13.From a reading of these materials, one can easily come to the conclusion that the question of dishonesty is totally absent in this case. The petitioner's grand mother had dominion over both the lands namely Survey No.4/2 and Survey No.3/1. She was the cultivating tenant in respect of both the lands. She later purchased Survey No.3/1 alone. But there was a well in both survey numbers. Obviously, connection to Survey No.3/1 passes via Survey No.4/1. Thus, in survey No.4/2, there is a main switch board and also starter. A pole has also been installed therein. Thus, one can come to the safe conclusion that this connection energized the wells in both the survey numbers. So long as both the survey numbers were enjoyed by one person, there was no dispute or issue. But when the ownership fell into two separate hands, obviously, the question has arisen as who is entitled to service connection. Since the service connection stood in the name of Savariammal and her successor-in-interest is only the seventh respondent herein, I cannot fault the name change made by TANGEDCO. At the same time, I cannot sustain levy of assessment or compensation of charges on the petitioner herein. This is because, I find that there is no dishonest abstraction of energy.

14.In this view of the matter, even while sustaining the order dated 17.06.2014, I quash the demand vide order dated 21.11.2016. This Writ Petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

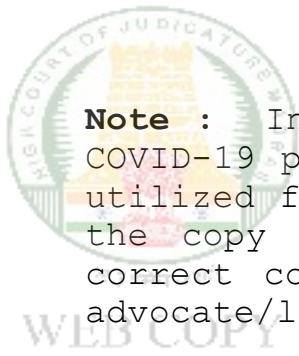
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Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



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,Trichy.
- 2.The Executive Engineer,
Operation and Maintenance,
TANGEDCO, Lalgudi,
Trichy District.
- 3.The Assistant Executive Engineer,
Operation and Maintenance,
TANGEDCO, Lalgudi,
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- 5.The Assistant Electrical Engineer,
Operation and Maintenance,
TANGEDCO, Valadi Lalgudi,
Trichy District.
- 6.The Assistant Accounts Officer,
Revenue Branch,
TANGEDCO,
Lalgudi-612 601.

+1 CC to Mr.R. SUBRAMANIAN, Advocate (SR-16261[F] dated 08/09/2020)

W.P. (MD)No.23706 of 2016
07.09.2020

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