



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 13029 of 2017

and

W.M.P. (MD) Nos. 10096 and 10097 of 2017

WEB COPY

Arulmigu Sivaloganathar Temple,
Siruganur, through its
Executive Officer,
Manachanallur,
Trichy.

... Petitioner

Vs.

1. The Assistant Engineer,
(Distribution),
TANGEDCO,
Siruganur,
Trichy-621105.

2. The Executive Engineer,
(Distribution),
TANGEDCO,
Srirangam,
Trichy-621105.

3. The Assistant Executive Engineer,
(Distribution),
TANGEDCO,
Samayapuram,
Trichy.

4. Arasu Prabhakaran @ RajaPrabhakar

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to disconnect the service connections and to give any further electricity service connections in respect of S.No.228/5B-0.31.0 ares in Siruganur Village, Manachanallur Taluk, Trichy District.

For Petitioner	: Mr.S.Manohar
For R1 to R3	: Mrs.S.Srimathy
	for Mr.S.M.S.Johny Basha
For R4	: Mr.S.Siddharthan

O R D E R

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for TANGEDCO and the learned counsel appearing for the fourth respondent.



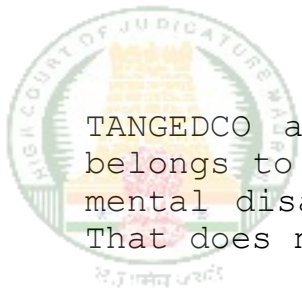
2.The petitioner is a temple. It is coming under HR & CE Department. The fourth respondent is a cultivating tenant under the temple. The status of the fourth respondent as a cultivating tenant is not in dispute. While so, the fourth respondent had put up commercial constructions on the land that was taken on lease. It appears that a community hall and a marriage hall has been put up. The writ petitioner temple filed O.S.No.223 of 2016 on the file of the District Munsif Court, Lalgudi and asked for permanent injunction restraining the fourth respondent from putting up any construction. Injunction was also granted on 07.11.2016 in I.A.No.403 of 2016. The suit is said to be still pending. In the mean while, construction appears to have been completed and the fourth respondent applied to TANGEDCO for granting commercial service connection. It appears that construction had already been put up. TANGEDCO authorities also, after obtaining indemnity bond from the fourth respondent, granted him the petition mentioned service connection. To disconnect the same, this writ petition came to be filed.

3. The learned counsel appearing for the fourth respondent submitted that the temple granted lease in his favour way back on 07.07.1996. He stated that even in the lease deed, he was permitted to put up construction subject to permission. He states that he had already applied to the HR&CE authorities for granting him permission to put up construction. He states that HR & CE Authorities have not acted on his request. He states that Regulation 27(4) of the Tamil Nadu Electricity Distribution Code permits the fourth respondent to take service connection, even if the owner does not give consent.

4.I am afraid that I cannot accept the submissions made by the learned counsel appearing for the fourth respondent. There is no dispute that the land in question belong to the temple. Even the fourth respondent claims status only as a lessee. The terms of lease are very clear that the fourth respondent was inducted only as a cultivating tenant. But what he had done is something different. Stating that the National Highway Authority had already taken away several cents of land, the fourth respondent had also put up commercial constructions.

5.I posed a specific question, as to whether the fourth respondent had put up construction after getting approval from the concerned planning authorities.

6.The learned counsel states that he is not having instructions in that regard. As of now, there is no material to show that the constructions in question were put up after getting approval. It is true that Regulation 27(4) enables TANGEDCO to grant service connection in favour of an occupier even if the owner of the premises does not give consent. But this regulation cannot be mechanically and arbitrarily invoked by the TANGEDCO authority.



TANGEDCO authority ought to have seen that the land in question belongs to a temple. It is very settled that for minors, those with mental disabilities and idols, the Court has to act as a guardian. That does not mean that others can disregard their interests.

7. When the matter concerning temple property comes before a TANGEDCO Official, he ought to apply his mind. I regret to record that the TANGEDCO authority in this case have shown scant record for the interests and welfare of the petitioner temple. HR & CE Act, 1959 contains several provisions to protect the properties of the temple. In fact, the temple property cannot be alienated beyond a period of five years without getting sanction from the Government / Commissioner. In this case, by putting up commercial construction on the temple land, the fourth respondent has committed rank illegality. To perpetuate the same, TANGEDCO has also provided service connection. Nothing can be more illegal than this.

8. Therefore, I have no hesitation to allow this writ petition as prayed for. The Writ Petition stands allowed. The respondents 1 and 2 shall effect disconnection of the petition mentioned service connection. If any bore well has been granted any service connection, the same shall not be disconnected. Since the fourth respondent is a cultivating tenant, installation of a bore well cannot be said to be illegal. However, I make it clear that water in the said bore well should be used only for the fourth respondent's agricultural operations. They will not be put to any commercial exploitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// 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 Assistant Engineer,
(Distribution),
TANGEDCO,
Siruganur,
Trichy-621105.

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



2.The Executive Engineer,
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Srirangam,
Trichy-621105.

3.The Assistant Executive Engineer,
(Distribution),
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Samayapuram,
Trichy.

+1 CC to M/s.S. MANOHAR, Advocate (SR-16035[F] dated 07/09/2020)

W.P. (MD) No.13029 of 2017
04.09.2020

KB(22.09.2020) 4P 5C