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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

S.A.No.35 of 2021
and
C.M.P.No.969 of 2021

S.Kuttiappa Gounder

...Appellant/Plaintiff

Versus

1. The Superintendent Engineer,
(Operation and Maintenance),
Tamilnadu Electricity Board,
Mettur Dam - 1,
Salem District.
2. The Assistance Executive Engineer,
(Operation and Maintenance),
Tamilnadu Electricity Board,
Mettur Dam - 1,
Salem District.
3. The Assistant Divisional Engineer,
(Operation and Maintenance),
Tamilnadu Electricity Board,
Edappadi,
Salem District.
4. The Junior Engineer,
Tamilnadu Electricity Board,
Koneripatti,
Nedungulam Post,
Edappadi Taluk, Salem District.

5.Venkatachalam

...Respondents/Defendants

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree dated 30.08.2019 made in A.S.No.15 of 2017 on the file of the Sub Court, Sankari confirming the judgment and decree dated 14.03.2017 made in O.S.No.57 of 2010 on the file of the District Munsif Court, Sankari.



For Appellant : Mr.N.Manoharan

For R1 to R4 : Mr.Viswanathan
Standing Counsel for TNEB

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JUDGMENT

This Second Appeal has been filed challenging the judgment and decree dated 30.08.2019 made in A.S.No.15 of 2017 on the file of the Sub Court, Sankari confirming the judgment and decree dated 14.03.2017 made in O.S.No.57 of 2010 on the file of the District Munsif Court, Sankari.

2.The only issue raised in the present Second Appeal is with regard to the proposed erection of pole and drawing electricity line over the suit schedule property.

3.The learned counsel for the appellant submitted that the 5th respondent herein applied for the Agriculture Service Connection for his Well, therefore, the respondents 1 to 4 have initiated to provide electricity line to the 5th respondent's land through the appellant's land. Further, he submitted that the 5th respondent has already provided with the electricity connection through which the Agricultural Service Connection can be provided instead of erecting electricity pole in the appellant's land. These aspect was not considered by both the Courts below, therefore, the present Second Appeal has been preferred.

4.Though this matter was not admitted, this Court for the purpose of admission with regard to the proposed substantial questions of law, ordered notice. Consequently, respondents 1 to 4 filed an affidavit stating that they have no intention to erect electricity pole and draw electricity line on the appellant's land to provide electricity to the 5th respondent as stated by the appellant. On the other hand, they stated that they were kept the material ready for providing electricity connection to Elayappa Gounder, S/o.Palani Gounder belong to Vellarivelli Village, who had applied for Agricultural Service Connection in the year 1989.

5.Mr.Viswanathan, learned Standing Counsel for the respondents 1 to 4 submitted that the said connection to Elayappa Gounder was already provided by the Electricity Department. The apprehension of the appellant is only on basis of presumption and assumption. Even in Paragraph No.9 of the written statement filed by the 5th respondent before the Trial Court, he has stated that the electric pole was already installed near to his Well and Electricity Service Connection



was also provided to his house. These aspects are clearly dealt with by the Courts below.

6. Heard the learned counsel for the appellant as well as the respondents 1 to 4 and perused the materials available on records.

7. At this juncture, it would be appropriate to extract the relevant portion in Paragraph No.9 of the written statement filed by the 5th respondent before the Trial Court, which is reproduced hereunder:

"9.....

There is no necessity to dig pits for erection of electric poles and wires stays apparents and appliances in the lands in R.S.No.375/2A for the transmission and distribution of electricity to the lands in R.S.No.375/2 of Vellarivelli Village infavour of this defendant, because already electric pole is installed in S.No.475/4C1 near this defendant's Well and also this defendant got the Electricity Service Connection to his house."

8. It is also appropriate to extract Paragraph No.5 of the affidavit filed by the respondents 1 to 4 dated 18.02.2021, which is reproduced hereunder:

"5. I respectfully submitted that it is not true that the 5th defendant/respondent has applied for a Agriculture Service Connection. There is no Application pending in our office filed by 5th defendant/respondent. It is not true that the Electricity Board Official have planed to draw electrical line through the plaintiff land. In fact the Electricity Board Officials were kept ready with the material for the purpose of giving electricity connection to one Elayappa Gounder S/o. Palani Gounder"

9. From the perusal of the above, it is clear that no electric pole and electric lines are going to be installed and no electricity going to be drawn through the plaintiffs land. Accordingly, the affidavit filed by the respondent dated 18.02.2021 is taken on record and consequently, no further order is required in the Second Appeal.

10. In view of the above recording and submissions made by the learned Standing counsel for the respondents 1 to 4, this Court feels no substantial questions of law that arises for consideration as stated by the learned counsel for the appellant.



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11. In the result, the Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Sub Judge, Sankari
2. The District Munsif, Sankari.

Copy To

The Section Officer,
V R Section, High Court,
Madras.

+1cc to Mr.V.Viswanathan, Advocate, S.R.No.15345

+1cc to Mr.N.Manoharan, Advocate, S.R.No.15241

S.A.No.35 of 2021
and
C.M.P.No.969 of 2021

NMI (CO)
RGA (28/10/2021)