

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	15.03.2021
Pronounced On	29.03.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.17294 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

1.A.Subramani

2.A.Pachamuthu

3.A.Mani

4.A.Arumugham @ Raja

... Petitioners

Vs.

1. The Executive Engineer [O & M],
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Attur - 636 102, Salem District.

2. K.Geethakrishnan

3. The District Collector,
Salem District, Salem.

... Respondents

(R3 - Impleaded as per order dated
14.11.2011 in W.P.No.17294 of 2011)

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus by calling for the records relating to Ka.No.Se.Po/EPa/A/VaA/Ko.Thani/No.035 dated 25.05.2011 on the file of the first respondent herein, quash the same and consequentially direct the first respondent herein to restore the electricity service connection S.C.No.51, Ramanaickenpalayam, Attur Taluk.

For Petitioners : Mr.L.Mouli
For First Respondent : Mr.D.Krishna Pradeep for
Mr.N.Damodharan, Standing Counsel
For Second Respondent : No appearance
For Third Respondent : Mr.N.Inbanathan, A.G.P.

O R D E R

I have heard the learned counsel for the petitioners and the learned Standing Counsel for the first respondent and the learned Additional Government Pleader for the third respondent. I have also perused the affidavit filed in support of the present writ petition and the counter affidavit filed by the first respondent.

2. This Writ Petition has been filed to quash an order dated 25.5.2011 bearing reference Ka.No.Se.Po/EPa/A/VaA/Ko.Thani/No.035 passed by the first respondent, the Executive Engineer (O&M), whereby, the first respondent has ordered disconnection of the electricity connection in a S.C.No.51 in Survey No 691/2 of the petitioners.

3. The petitioners claim to be in possession of about 9.5 acres out of 10.53 acres of land which was originally assigned to the second respondent's father by the Government under the freedom fighters quota. It appears that the father of petitioners had purchased about 4.75 acres of land directly from the second respondent's father and indirectly another extent of 4.75 acres of land from another person to whom the second respondent's father had sold same. However, no registered sale deed was executed for the same.

4. It appears that there was a dispute between the second respondent, the daughter of the said freedom fighter and one Duraisamy Boyan who was in possession of about 1 acre of the assigned land and therefore second respondent had given a representation to the first respondent to disconnect the power connection given to the said Duraisamy Boyan. Since no action was taken on the representation of the second respondent for disconnecting the power connection given to the said Duraisamy Boyan, the second respondent filed W.P.No.28022 of 2010.

5. The above writ petition was disposed by an order dated 31.01.2011 with a direction to the first respondent herein to consider the representation of the second respondent and to pass appropriate order after giving an opportunity to the petitioner

therein (the second respondent herein) and the said Duraisamy Boyan.

6. In the light of the above development, the petitioners sent a legal notice dated 09.04.2011 to the first respondent and other authorities with a request to the first respondent to not to take any action against the petitioners in respect of private dispute between the second respondent and the said Duraisamy Boyan.

7. The petitioners were issued with a notice dated 25.05.2011 by the first respondent. The petitioners were called upon to furnish details of documents to establish that the petitioners were in lawful possession of the land. The petitioners replied to the above notice of the first respondent by reiterating the content of the legal notice dated 09.04.2011. The first respondent however has sent a reply to the above legal notice issued on behalf of the petitioners vide a letter dated 18.07.2011 and informed the legal counsel of the petitioners that the electricity connection given to the petitioners had already been disconnected on 05.07.2011. Aggrieved by the same, this Writ Petition has been filed.

8. The learned counsel for the petitioners submits that petitioners were in lawful possession of the land and therefore, there is no justification in disconnecting the connection given to the petitioners. It is further submitted that the second respondent had a dispute with the said Duraisamy Boyan and therefore it was unnecessary to drag the petitioners to the dispute between the second respondent and said Duraisamy Boyan. Reference was also drawn to Regulation 27(4) of the Tamil Nadu Electricity Distribution Code.

9. The learned Standing Counsel for the first respondent submits that the petitioners were not entitled to relief as prayed for in this Writ Petition. He further submits that the petitioners were not in lawful possession of the land and therefore the petitioners will not be entitled to restoration of the electric connection that was disconnected on 05.07.2011.

10. I perused the provisions of the Tamil Nadu Electricity Distribution Code. Regulation 27 (4) of the aforesaid Code applies only to a person who seeks a fresh connection. An applicant is required to obtain a no objection from the owner of the land / property / premises where he is not the owner. Regulation 27(4) of the aforesaid Code is reproduced below:-

27. Requisitions for Supply of Energy:-

(1)

.....

(4). An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III to this code indemnifying the licensee against any loss on account of disputes arising out off effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate.

11. Since there is no apparent dispute between the petitioners and the second respondent, the disconnection of the electric connection which was given to the petitioners cannot be justified. Therefore, the electric connection given to the petitioners for the aforesaid agricultural land shall be restored forthwith, within a period of thirty days from date of receipt of a copy of this order.

12. Liberty is also given to the third respondent District Collector, Salem to initiate appropriate proceedings to recover the land if the possession of the land and the sale of the land by the second respondent's father or by the second respondent was contrary to the relevant Government Orders assigning the land to freedom fighters. Needless to emphasis, such proceedings shall be in accordance with law after due process of law and not in a summary manner.

13. Writ Petition stands disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jen

To

1. The Executive Engineer [O & M],
Tamil Nadu Electricity Board,
Salem Electricity Distribution Circle,
Attur - 636 102, Salem District.

2. The District Collector,
Salem District, Salem.

+1cc to Mr.L.Mouli, Advocate, S.R.No.20128.
+1cc to the Government Pleader, S.R.No.20807.

W.P.No.17294 of 2011
and M.P.No.1 of 2011

KV(CO)
CSR 28.04.2021



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