

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.31761 of 2012 and
M.P.No.1 and 2 of 2012

Sadaiyappa Gounder

... Petitioner

Vs.

1. The Superintendent of Engineer (TANGEDCO),
Erode Electricity Distribution Circle,
Erode District.
2. The Executive Engineer (O & M),
Erode Distribution Circle,
Perundurai, Erode District.
3. The Assistant Executive Engineer (O & M),
(TANGEDCO),
Erode Electricity Distribution Circle
Kunnathur 638 103 Erode District.
4. The Assistant Engineer (O & M),
(TANGEDCO), Erode Electricity Distribution Circle,
Kunnathur 638 103 Erode District.
5. K.Karuppanna Gounder Respondents

PRAYER: Writ petition filed under Section 226 of the Constitution of India to issue a Writ of certiorarified mandamus or any other appropriate writ, order or direction to call for the records relating to the proceedings of the 4th respondent issued in Ka.No./AE/V Kunnathur/Co.Kattu/A.No.114/12 dated 03.09.2012 and quash the same and consequently direct the respondents 1 to 4 to disconnect the service connection No.1265 granted to a bore well in the land in S.No.127/8 Kavuthampalayam Village, Avinasi Taluk, Tiruppur District in the name of the 5th respondent.

For petitioner : Mr.Nedunchezhiyan

For respondents : Mr.M.Vijay Mehanath,
Standing counsel for R1 to R4

Mr.D.Jaganathan for R5

ORDER

This writ petition has been filed to quash the proceedings of the 4th respondent dated 03.09.2012 and also direct the respondents 1 to 4 to disconnect the service connection No.1265 granted to a bore well in the land in S.No.127/8 Kavuthampalayam Village, Avinashi Taluk, Tiruppur District in the name of the 5th respondent.

2. The brief facts of the writ petition is as follows.

The petitioner and the 5th respondents are the joint owners of the land in S.No.127/8, Kavuthampalayam Village, Avinashi Taluk, Tiruppur District to an extent of 35 cents (0.14.5 hec), in which, electricity service connection No.126 has been obtained by them jointly in their name for the well and electric motor being in the land, used to carry out the agricultural activities.

2.1. While that being so, the 5th respondent has applied for free electricity service connection for a bore well in R.S.No.127/8, truly said, no such bore well in the land. On knowing the fact, the petitioner made his repeated objections dated 07.02.2011, 8.02.2011 and 22.02.2011 to the electricity Board not to provide service connection to the joint owners property. However, the Electricity Board has given service connection to the bore well in the land in S.No.127/8, in the name of 5th respondent alone. After availing the service connection, the 5th respondent had proceeded to erect the bore well. The service connection granted in favour of the 5th respondent in his individual name has caused serious hardship to the petitioner, since the open well being in the same land has been greatly affected because of depletion of water. Hence, the petitioner filed a suit in O.S.No.180 of 2011 before the District Munsif. Perundurai against the respondents for closure of bore well and also to direct the concerned officials to disconnect the service connection and the said suit is pending.

2.2. Inview of the repeated representation given by the petitioner, the 4th respondent has called for a report with regard to the ownership of the land from the Tahsildar, Avinashi and the Tahsildar has also submitted a report stating that the land in S.No.127/8 to an extent of 0.14.05 hec is jointly owned by the petitioner and the 5th respondent and hence, there cannot be any granting of service connection in the name of the 5th respondent alone. However, the 4th respondent without taking any steps to disconnect the service connection given for the bore well, had passed the impugned order dated 03.09.2012, rejecting the claim of the petitioner, stating that since civil suit is pending, no further action would be taken till the conclusion of the suit. Hence, the writ petition.

4. The brief contentions of the counter affidavit filed by the respondents 1 to 4.

The 5th respondent had applied for agricultural service connection for his bore well at SF.127/8, K.V.Palayam Village on 06.09.1996 and he had produced his ownership certificate for his bore well from the Village Administrative officer. There is one open well at S.F.No.127/8 and an electricity service connection No.126 is available in the name of Sadayappa Gounder, as per the records. While processing the application, the question of non-availability of bore well does not arise.

4.1. The petitioner had given his objection that there is no bore well in SF No.127/8. Hence, the petitioner was requested to produce the revenue records related to his objection. On each and every occasion, while the petitioner raised objection, he was asked to produce records to establish his ownership from the concerned authorities, but he failed to do so. In the second letter dated 26.05.2011 given by the Tahsildar, Avinashi it is stated that in RSF No.127/8, one bore well and one open well was available and also in SR No.127/9, one bore well is available and hence, the Board was asked to process the application for effecting service connection as per Board rules. Therefore, based on the ownership certificate of the 5th respondent for bore well at SF No.127/8, K.V.Palayam, service connection was effected. If joint ownership of the petitioner for the bore well at SF No.127/8 is established by the petitioner, the Board is ready to include the petitioner's name in the effected service connection 061-002-1205 K.V.Palayam, under the direction of the court.

5. The 5th respondent has filed his counter affidavit raising several disputes between him and the petitioner.

6. According to the respondents 1 to 4, already service connection was effected in the name of the 5th respondent for bore well at SF No.127/8, K.V.Palayam, based on the ownership certificate produced by him. It is also stated by them that, if the joint ownership of the petitioner is established, they are ready to include the petitioner's name in the effected service connection.

7. A perusal of the impugned order shows that since a civil suit is pending with regard to the land, no order would be passed till the conclusion of the civil suit. Further, all the allegations raised in the writ petition will be considered by the authorities concerned only by the relevant revenue documents. At this juncture, it is stated by the counsel for the petitioner that, the petitioner is ready and willing to produce all the revenue documents to prove the joint ownership of the land by the petitioner and the 5th respondent.

8. Further, it is brought to the notice of this court that, as per the new Guide Line of the Tamil Nadu Electricity Board, a service connection can be effected in the name of the applicant, even if the property stood in the name of the joint owners, including the applicant. Therefore, considering the above said fact and also taking into account the submission made by the counsel for the petitioner that the petitioner is ready to place all the documents before the authorities concerned to prove that the property is jointly owned by him as well as the 5th respondent, the petitioner is directed to appear before the 4th respondent and to produce the copy of objections along with all the relevant documents, within six weeks from the date of receipt of a copy of this order. On receipt of such documents from the petitioner, the 4th respondent shall give further time to the petitioner as well as the 5th respondent to appear before them for enquiry and after hearing both side, the 4th respondent shall consider the same and pass appropriate orders on merits. All such exercise shall be completed within four months from the date of receipt of a copy of this order.

9. With the above direction, the impugned order passed by the fourth respondent dated 03.09.2012 is quashed till the final order passed by the fourth respondent and the service connection already effected in the name of the fifth respondent for bore well at SF No.127/8, K.V.Palayam shall not be disconnected till the orders passed by the fourth respondent.

10. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

mst

To

1. The Superintendent of Engineer (TANGEDCO),
Erode Electricity Distribution Circle,
Erode District.

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Kunnathur 638 103 Erode District.

+lcc to Mr.G.Sankaran, Advocate SR.No.25835

W.P.No. 31761 of 2012 and
M.P.No.1 and 2 of 2012

PP (CO)
GMY (08/07/2021)



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