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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NOS.8523, 8529, 8531, 8533, 8535, 8538,
8541, 8543 AND 8544 OF 2019

AND

W.M.P.NOS.9040, 9057, 9047, 9059, 9048,
9049, 9051, 9053 AND 9054 OF 2019

C.Gunasekaran	... Petitioner in W.P.No.8523 of 2019
K.Chandrakasu	... Petitioner in W.P.No.8529 of 2019
A.Kannu	... Petitioner in W.P.No.8531 of 2019
S.Neelavathi	... Petitioner in W.P.No.8533 of 2019
Syed Tajmal	... Petitioner in W.P.No.8535 of 2019
G.Varghese	... Petitioner in W.P.No.8538 of 2019
T.Dilli	... Petitioner in W.P.No.8541 of 2019
N.Kantha	... Petitioner in W.P.No.8543 of 2019
G.Aththiyan	... Petitioner in W.P.No.8544 of 2019

.Vs.

1. The Assistant Executive Engineer,
Electricity Distribution Circle,
Oragadam, Pudhur,
TANGEDCO, Ambattur,
Chennai - 600 053.



2. The Assistant Engineer,
Operation and Maintenance,
TANGEDCO, Kallikuppam Division,
Ambattur, Chennai - 600 053.

3. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai - 600 053.

4. The Assistant Engineer,
PWD Water Resources Department,
Redhills Irrigation Section,
Redhills, Chennai - 600 052.

... Respondents in
all W.P.'s

COMMON PRAYER:-

These Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other direction in the nature of Writ;

PRAYER IN W.P.NO.8523 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection to Plot No.38, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8529 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in consumer No.441-006-1549 to Plot No.16, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8531 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection to Plot No.8, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8533 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in Consumer No.441-006-1974 to Plot No.47, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8535 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in Consumer No.441-006-994 to Plot No.2, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.



PRAYER IN W.P.NO.8538 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in Consumer No.441-006-1842 to Plot No.20, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District

PRAYER IN W.P.NO.8541 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in Plot No.4, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8543 OF 2019:-

Directing the respondents 1 and 2 to restore Electricity connection in Consumer No.441-006-1366 to Plot No.42, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

PRAYER IN W.P.NO.8543 OF 2019:-

Directing the Respondents 1 and 2 to restore Electricity connection in Consumer No.441-006-2424 to Plot No.12, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

For Petitioners : Mr.K.Sakthivel
in all W.P's

For Respondent R1 & R2 : Mr.Jai Venkatesh
in all W.P's EB Standing Counsel

For Respondent R3
in all W.P's : Mr.M.R.Gokul Krishnan
Government Advocate

O R D E R

The petitioner has filed the Writ Petition in W.P.No.8523 of 2019 seeking issuance of Writ of Mandamus or any other direction in the nature of Writ directing the respondents 1 and 2 to restore Electricity connection to Plot No.38, 16, 8, 47, 2, 20, 4, 42 and 12 respectively, Muthamizh Nagar in Survey No.813/2B in Korattur Village, Chennai District.

2. The case of the petitioners is that the petitioners have been residing at their residences in Survey No.813/2B in Korattur Village, Ambattur Taluk for more than 50 years without any disturbance. Since, the petitioners are in possession of their properties in the said Survey No., the Tahsildar (Special), Saidapet issued separate Patta in favour of the

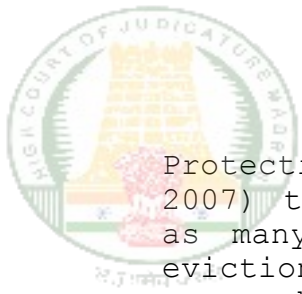


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petitioners in the year 1991. Subsequently, the Chenglepet District was bifurcated and Thiruvallur District was formed. Korattur was under Ambatur Taluk in Thiruvallur District and later it has been included in the Chennai District. After the issuance of Patta, the petitioners have been paying all the necessary taxes such as Property Tax, Water Tax and Sewerage charges to the various authorities. Apart from that the petitioners have also obtained electricity connection from the respondent Electricity Board and have continuously been paying the electricity consumption charges according to their usage. Thereafter, the 3rd and 4th respondents issued Form-III notice to all occupants of the Survey No.813/2B describing as if the Survey No. is 813 and have attempted arbitrarily to evict all those persons in Survey No.813/2B in the guise of Survey No.813 under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007. Further, the 3rd and 4th respondents have instructed the 1st respondent to disconnect the electricity connection to the petitioners' house on 12.10.2018 and subsequently, the same was disconnected by the 1st respondent on the same day. Therefore, the residents association preferred a representation dated 04.02.2019 to the 3rd and 4th respondents however, the 1st respondent has not restored the electricity connection. Hence, the the present Writ Petition is filed.

3. Learned counsel appearing for the petitioner submits that based on the recommendation of Tahsildhar (Special), Saidapet, the District Collector of Chengalpattu issued Patta in favour of the petitioners in the year 1991 and thereafter, the petitioners have been paying all the necessary taxes to the various authorities and also continuously paying electricity consumption charges according to their usage. However, without following the due process of law, the 1st respondent has disconnected electricity to those houses where the petitioners are residing. Even after the petitioners' representation, electricity was not restored and further submitted that their livelihood is affected, without electricity connection thereby, it is necessary to restore the electricity connection without prejudice to their rights.

4. The learned Government Advocate appearing for the respondents submitted that the entire area in respect of Survey No.813, which is water course poramboke land, and no authority has power to issue Patta for the said water body. In the present case, the petitioners state that Patta has been granted to them by the Tahsildar, Saidapet on 17.10.1991 and issued separate pattas to all the occupants in an extent of 3 cents in S.No.813/2B, the entire extent in S.No.813 of 240.86.0 of Korattur Village still remains as a whole without any sub division and in accordance with the Tamil Nadu Protection of Tank and Eviction of Encroachment Act, 2007 and the Tamil Nadu



Protection of Tank and Eviction of Encroachment Rules (Rules 2007) the tank was surveyed by the 3rd respondent/Tahsildar and as many as 455 encroachments were indentified and hence the eviction process was taken under due process of law. The encroachers were evicted in accordance with law after disconnection of power supply by the Electricity Board and reconnection of power supply in the evicted cases would not arise. Hence, he prays for dismissal of the prayer sought for by the petitioner.

5. The fact in the present case is that the petitioners claimed that they were given assignment order by way of proceedings of then District Collector of Chengalpattu and then Tahsildar of Saidapet in the year 1991 based on which, they started constructing their houses and resided over the same which is not in dispute and that they have got electricity connection on the basis of the said documents. However, on perusal of the records, the area where the petitioners were residing has been classified as Korattur Eri which is a water course poramboke land. This Court has repeatedly delivered various judgements prohibiting assignment of land in water course poramboke to safeguard the water course poramboke lands from unauthorized encroachments. Therefore, the patta alleged to have been granted to the petitioners cannot be allowed to stand. The petitioners, cannot, as a matter of right, claim the patta over a water body, when the water bodies are the perennial source of life for the public.

6. For the reasons aforesaid, the present prayer sought for by the petitioners cannot be granted and, accordingly, this petition is dismissed. However, liberty is granted to the petitioners to workout their remedies in accordance with law. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Executive Engineer,
Electricity Distribution Circle,
Oragadam, Pudhur,
TANGEDCO, Ambattur,
Chennai - 600 053.



2. The Assistant Engineer,
Operation and Maintenance,
TANGEDCO, Kallikuppam Division,
Ambattur, Chennai - 600 053.

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3. The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai - 600 053.
4. The Assistant Engineer,
PWD Water Resources Department,
Redhills Irrigation Section,
Redhills, Chennai- 600 052.

+1cc to Mr.Jai Venkatesh, Advocate, S.R.No.59159

+1cc to Mr.K.Sakthivel, Advocate, S.R.No.59384

+1cc to the Government Pleader, S.R.No.59495

+1cc to Mr.K.Sakthivel, Advocate, S.R.No.59384 (10/01/2022)

W.P.NOS.8523, 8529, 8531, 8533, 8535,
8538, 8541, 8543 AND 8544 OF 2019

PA(CO)
PBS/27/12/2021