

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 8043 of 2013

and

M.P. No. 1 of 2013

(Through Video Conferencing)

G.Elumalai,
S/o.M.Gengappa Naicker ... Petitioner

Vs

1. The Assistant Engineer,
(O & M), Valasaravakkam at
Alwar Thirunagar,
Chennai Electricity Distribution
Circle (West),
Chennai - 87.
2. G.Venkatesan,
S/o.M.Gengappa Naicker Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to disconnect the existing Commercial Service Connection bearing no.240/02/161 in respect of the property bearing No.3, 8th Street, Jai Nagar, Valasaravakkam, Chennai - 87, granted to the second respondent herein and restore the same as Domestic Service Connection as the entirety of the conversion from domestic to commercial is highly arbitrary, illegal and without proper records and documents.

For Petitioner : Mr.A.Palaniappan

For R1 : Mr.P.Gunaraj

For R2 : Mr.R.Bharathkumar

ORDER

The petitioner has filed the present writ petition for a Mandamus, to disconnect the electricity connection given to the 2nd respondent on the ground that the 2nd respondent was not entitled to carry on the business by putting up an Automobile Workshop (Car Shed) for commercial purpose.

2. It is the case of the petitioner that the petitioner has filed suit for partition in O.S.No.123 of 2000 before the Sub-Judge, Poonamallee. Apart from the above suit, there was another suit in O.S.No.125 of 2002 which was re-numbered as O.S.No.208 of 2016 on the files of the Sub-Ordinate Court, Poonamallee. These suits came to be disposed by the Judgement & Decree dated 23.11.2017.

3. The suit in O.S.No.123 of 2000 filed for partition was partly decreed by granting preliminary decree with respect to property in Schedule 4(A) while O.S.No.208 of 2016 was partly decreed by granting injunction with respect of the said property alone.

4. As the petitioner herein has filed an appeal in A.S.No.23 2018 against the Judgment and Decree in O.S.No.123 of 2000, which is said pending as on date on the file of the Principal District Judge, Tiruvallur, no orders can be granted at this stage. Further, facts are also not in dispute as use of the property is for commercial purpose. Since the 2nd respondent has put up a Automobile shed for commercial purpose, the 1st respondent was justified in collecting and levying charges at commercial rates.

5. Therefore, I do not find any merits in the present writ petition. The Writ Petition is dismissed with liberty to the petitioner, to approach the respondents subject to the final outcome of the appeal filed against a decree in O.S.No.123 of 2000. As long as the 2nd respondent carries on commercial activities, imposition of commercial rates for consumption of electricity cannot be disturbed.

6. This Writ Petition stands dismissed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

arb

To

The Assistant Engineer,
(O & M), Valasaravakkam at
Alwar Thirunagar,
Chennai Electricity Distribution
Circle (West),
Chennai - 87.

+1cc M/s.R.Bharath Kumar, Advocate Sr.8132

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srg 05/03/2021



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