

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP.(PD).No. 3805 of 2016

and

C.M.P.No. 19441 of 2016

Devaraj

... Petitioner

Vs.

1.Geethalakshmi

2.The Assistant Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

3.The Assistant Executive Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

4.The Executive Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

5.The Superintendent Engineer,
Tamilnadu Electricity Board,
Villupuram.

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the petition and order dated 02.09.2016 passed by the Principal District Munsif Court, Gingee, made in I.A.No.1310 of 2016 in O.S.No.585 of 2016.

For Petitioner : Mr.B.Jawahar

For Respondents : Mr.A.Saravanan
for Mr.R.Bharath Kumar (For R1)
Mr.V.Viswanathan (For R2 to R5)
Standing Counsel

ORDER

This Civil Revision Petition is directed as against docket order in I.A.No.1310 of 2016 in O.S.No.585 of 2016 dated 02.09.2016 on the file of the learned Principal District Munsif Court, Gingee, thereby granting ad-interim injunction as against the respondents 2 to 5 herein.

2. The first respondent is the plaintiff. She filed a suit in O.S.No.585 of 2016 before the learned Principal District Munsif Court, Gingee for mandatory injunction directing the respondents 2 to 5 herein to disconnect the electricity service connection provided in favour of the petitioner herein

in the 2nd item of the suit schedule property. The first respondent also filed application in I.A.No.1310 of 2016 for interim mandatory injunction, thereby directing the respondents 2 to 5 herein to disconnect electricity service connection provided to the petitioner herein in respect of the 2nd item of the suit schedule property without adding the petitioner as a party.

3. The Trial Court after perusing the documents and reasons stated in the affidavit filed in support of interim injunction petition in I.A.No.1310 of 2016 granted interim mandatory injunction in favour of the first respondent herein.

4. The case of the first respondent is that her husband already filed a suit in O.S.No.510 of 2004 for declaration and injunction restraining the respondents 2 to 5 herein not to provide any electricity service connection in favour of the petitioner herein. Even then, the respondents 2 to 5 provided electricity service connection in respect of 2nd item of the suit schedule property in favour of the first respondent herein.

5. Aggrieved by the same, the petitioner do not file any appeal. When it being so, the petitioner had full knowledge about the injunction and as such, he is not a necessary party to the petition for interim injunction.

6. On perusal of the plaint as well as the affidavit filed in support of the interim injunction petition, though the decree obtained by the first respondent's husband in O.S.No.510 of 2004, thereafter, admittedly the respondents 2 to 5 herein provided electricity service connection in favour of the petitioner herein in respect of 2nd item of suit schedule property. When it being so, without adding the petitioner as a party in the interim injunction petition and obtained interim mandatory injunction to disconnect the electricity service connection provided in favour of the petitioner.

7. In view of the above, order passed in I.A.No.1310 of 2016 in O.S.No.585 of 2016 dated 02.09.2016 by the Principal District Munsif Court, Gingee, is perverse and illegal and liable to be set aside.

8. Accordingly, the Civil Revision Petition is allowed. However, the first respondent is at liberty to file fresh petition for interim injunction

adding the petitioner as a party. On receipt of the same, the Trial Court is directed to consider the same on merits and in accordance with law. No Costs. Consequently, the connected civil miscellaneous petition is closed.

09.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

dm

To

1.The Principal District Munsif Court,
Gingee.

2.The Assistant Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

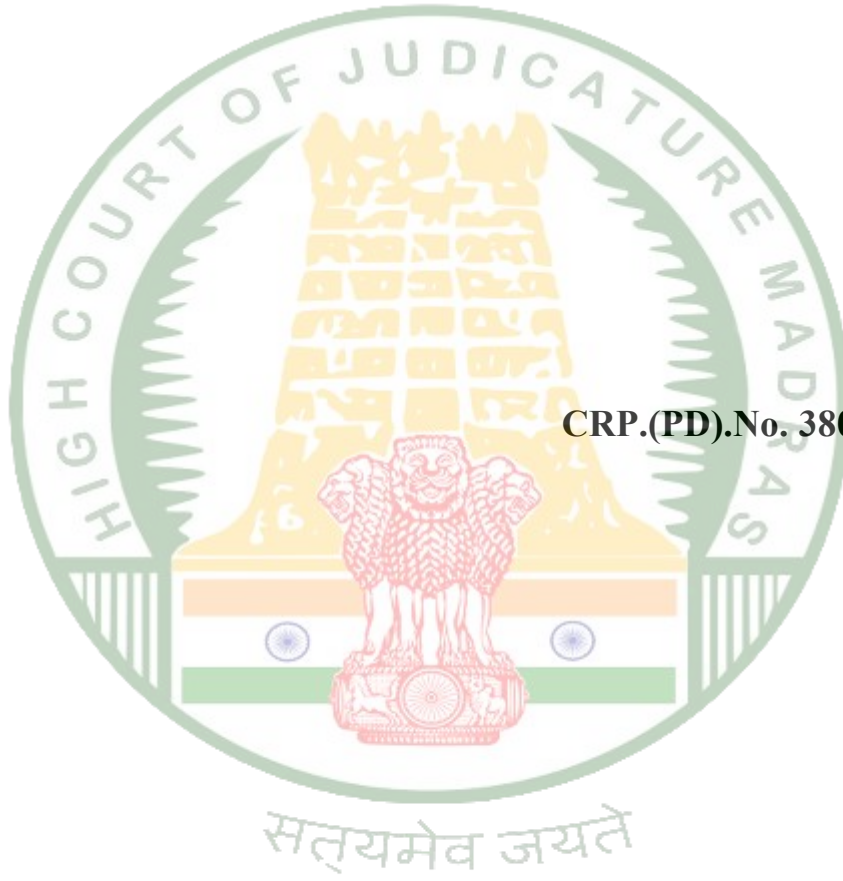
3.The Assistant Executive Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

4.The Executive Engineer,
Tamilnadu Electricity Board,
Gingee Town, Gingee,
Villupuram District.

5.The Superintendent Engineer,
Tamilnadu Electricity Board,
Villupuram.

G.K.ILANTHIRAIYAN,J.

dm



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