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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.12105 of 2019

M/s.Preet Enterprises
rep. by its Proprietor,
C.J.Francis, S/o.C.P.John,
Old No.3/88, Mount Poonamallee High Road,
Ramapuram,
Chennai 600 089.

...Petitioner

vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Revenue,
Fort St. George,
Chennai 600 009.
2. The Special Commissioner &
Commissioner of Urban Land Ceiling &
Urban Land Tax,
Chepauk,
Chennai 600 005.
3. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Mount Road,
Chennai 600 002.
4. The Assistant Engineer (O & M),
Tamil Nadu Electricity Board,
Kumudam Nagar,
Mugalivakkam Main Road,
Mugalivakkam,
Chennai 600 116.

5. K.Radhalakshmi

...Respondents



Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 4th Respondent to consider the Application dated 06.07.2018 submitted by the Petitioner to the 4th Respondent for getting new electricity service connection to the Petitioner's shed bearing Shed No.KR-13, comprised in S.No.151/1B, Door No.3/88, Mount Poonamallee High Road, Ramapuram, Chennai 600 089.

For Petitioner	:Mr.N.R.R.Arun Natarajan
For Respondents 1 & 2	:Mrs.C.Sangamithirai, Special Government Pleader
For Respondents 3 & 4	:Mr.L.Jai Venkatesh
For 5 th Respondent	:No appearance

O R D E R

Petitioner has come up with the present Writ Petition seeking a direction to the 4th Respondent to consider their Application dated 06.07.2018 made to the 4th Respondent for getting new electricity service connection to their Shed No.KR-13, comprised in S.No.151/1B, Door No.3/88, Mount Poonamallee High Road, Ramapuram, Chennai.

2. It is stated by the Petitioner that, land measuring an extent of 4,131.598 sq.mts. in Survey No.151/1B, Ramavaram Village, Mount Poonamallee, Chennai was declared as excess vacant land in the hands of the 5th Respondent under the Urban Land Ceiling Act and the 5th Respondent handed over possession of the said vacant land to the Revenue Department on 24.11.1983 and the excess land was vested with the State Government. The Petitioner entered into a lease Agreement with the 5th Respondent on 01.03.2005 for the industrial shed bearing No.KR-13 measuring an extent of 3000 sq. ft. in Teleflo Mini Industrial Estate at No.3/88 in Survey No.151/1B, Mount Poonamallee Road, Ramapuram Village, Chennai, on a monthly rent of Rs.11,700/-. It is the case of the Petitioner that, at the time of entering into the Lease Agreement, they did not know that, the said land was declared as excess in the hands of the 5th Respondent and vested with the State Government. Consequently, the 5th Respondent is not the owner of the land on which the industrial shed was put up and that, from 1983 onwards, she was an encroacher.



3. It is further stated by the Petitioner that, the 5th Respondent caused a legal notice dated 23.10.2007 and called upon them to hand over the vacant possession of the industrial shed bearing No.KR-13 measuring an extent of 3000 sq. ft. on 13.11.2007 and the Petitioner sent a detailed reply to the said legal notice. Thereafter, the 5th Respondent filed a Suit in O.S.No.34 of 2008 before the Sub-Court, Poonamallee for recovery of vacant possession of the Suit Schedule property, and also for damages. The Petitioner contested the said Suit by filing Written Statement and took a stand that, the Shed does not belong to the 5th Respondent, since the property on which the Factory Shed is put up, is vested with the Government under Urban Land Ceiling Act and that, the 5th Respondent handed over possession of the same to the Revenue Department in the year 1983.

4. Pursuant thereto, the 5th Respondent filed W.P.No.28993 of 2007 for a writ of mandamus to grant patta for the land declared as excess under the Urban Land Ceiling Act, claiming the benefit of the Urban Land Ceiling Repeal Act, under which, if possession of the excess vacant land has not been handed over by the Urban land owner to the Revenue Department, then, Urban Land Ceiling proceedings will abate. But, the 5th Respondent, the urban land owner, handed over possession of the excess vacant land measuring an extent of 4131.598 sq. mts. to the Revenue Department on 24.11.1983 and hence, she is not entitled to the benefit of the Urban Land Ceiling Repeal Act. However, the said Writ Petition was allowed by this Court on 02.02.2011. Aggrieved by the said order, tenants like that of the Petitioner preferred an Appeal in W.A.No.554 of 2011 and the same was allowed vide judgment dated 15.11.2011. Aggrieved by the same, the 5th Respondent preferred an Appeal in S.L.P.No.3946 of 2011 before the Apex Court, and the same was dismissed by an order dated 01.04.2013.

5. The 5th Respondent filed a Suit in O.S.No.34 of 2008 and the Trial Court decreed the Suit by a judgment and decree dated 22.12.2009. Aggrieved by the said judgment and decree passed by the Sub-Court, Poonamallee, the Petitioner filed A.S.No.47 of 2010 before the II Additional District Court, Fast Track Court, Poonamallee.

6. Thereafter, the Commissioner, Urban Land Ceiling & Urban Land Tax filed a Suit in O.S.No.449 of 2014 before the Principal District Munsif Court, Poonamallee, for permanent injunction restraining the 5th Respondent from collecting rent from the tenants, who are in occupation of the land in Survey



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No.151/1B. In the meanwhile, Review Application filed by the 5th Respondent in Review Application SR.No.105829 of 2011 in W.A.No.554 of 2011 was dismissed by an order dated 01.10.2013 and that, the Review Petition filed by the 5th Respondent before the Apex Court was also dismissed on 15.12.2014.

7. According to the Petitioner, by virtue of the judgment passed by this Court in W.A.No.554 of 2011 and the order of the Apex Court in S.L.P.No.3946 of 2012, the 5th Respondent has no title over the land on which the Shed is put up and the issue has reached finality.

8. The Petitioner has further stated that, the First Appellate Court dismissed the First Appeal in A.S.No.47 of 2010 vide judgment and decree dated 23.12.2011. Aggrieved by the same, the Petitioner preferred Second Appeal in S.A.No.43 of 2012 and the same was dismissed vide judgment and decree dated 16.08.2012. In view of the said judgment, the 5th Respondent filed E.P.No.115 of 2012 for the execution of the judgment and decree passed in O.S.No.34 of 2008. While so, the 5th Respondent made a representation for disconnection of electricity connection. Hence, Petitioner has come up with this Writ Petition seeking to consider his Application dated 06.07.2018 seeking new electricity connection to the property in question.

9. Learned counsel for the Petitioner submitted that, this Court may issue a direction to the 4th Respondent herein to consider the Petitioner's Application for new electricity connection, in view of the status quo order granted by this Court in W.A.No.231 of 2011.

10. On the other hand, learned Standing Counsel appearing for Respondents 3 and 4 submitted that, the lease period as per the Lease Agreement dated 01.03.2005 entered into between the Petitioner and the 5th Respondent is already over and that, the Petitioner is continuously occupying the land belonging to the Government and hence, the Electricity Board has rightly disconnected electricity service connection to the Shed in question.

11. As it is represented that, the lease period as per the Lease Agreement dated 01.03.2005 entered into between the Petitioner and the 5th Respondent is already over, and that, the land in question is vested with the Government, the relief sought for by the Petitioner cannot be granted.



In view of the above, this Writ Petition stands dismissed. No costs. Consequently, connected W.M.P.No.12374 of 2019 is closed.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

(aeb)

To:

1. The Secretary to Government,
State of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai 600 009.
2. The Special Commissioner &
Commissioner of Urban Land Ceiling &
Urban Land Tax,
Chepauk, Chennai 600 005.
3. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Mount Road,
Chennai 600 002.
4. The Assistant Engineer (O & M),
Tamil Nadu Electricity Board,
Kumudam Nagar,
Mugalivakkam Main Road,
Mugalivakkam,
Chennai 600 116.

+1 CC to M/s.C.Uma, Advocate sr 68168
+1 CC to Mr.L.Jai Venkatesh, Advocate sr 68258
+1 CC to The Government Pleader sr 68679.

W.P.No.12105 of 2019

AK(CO)
SP(21/03/2022)