

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HON'BLE MR. JUSTICE B. PUGALENDHI

WP No.13390 of 2020
and WMP.No.16526 of 2020

1. S. Muralibabu
2. S. Radhakrishnan

...Petitioners

Vs.

1. The Commissioner
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.
2. The Executive Officer,
Thiruvetteswarar Temple,
Sannathi Street,
Triplicane,
Chennai 600 005.
3. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation
10th floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 600 002.
4. The Assistant Engineer
Operation & Maintenance
Thiruvetteeswaranpet (Triplicane)
Chennai Distribution Circle/Central,
Chennai 600 002.

...Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records and quash the impugned order issued by the fourth respondent in 'த.எண் உ.பொ/இ & புதிவிபேட்டை/சோ.மினு/அ.எண்.118/20, நாள் 22/07/2020 and directing the 4th respondent to provide the Electricity Service Connection to the petitioners house property bearing old door No.90, New Door No.14, Plot No.9, Pulipone Bazaar, 3rd Land, Triplicane, Chennai 600 005.

For Petitioners: Mr.K. Kannan

For Respondents: M/s.G.N.Jayantheswari
Govt.Advocate for R1
Mr.P.Wilson Topaz
for M/s.A.S.Kailasam
& Associates for R2
Mr.Dilipkumar, Standing Counsel
for R3 and 4

ORDER

This writ petition has been filed against the communication of the fourth respondent Assistant Engineer, Operation & Maintenance (TANGEDCO), Thiruvetteeswaranpet (Triplicane), Chennai Distribution Circle/Central, Chennai, dated 22.07.2020 rejecting the request of the petitioners for electricity service connection for their house property bearing Old Door No.90, New Door No.14, Plot No.9, Pulipone Bazaar, 3rd Land, Triplicane, Chennai 600 005 on the ground that an objection has been raised by the HR&CE Department that they are the owners of the land in question.

2. The case of the petitioners is that they are the absolute owners of the property bearing Old No.90, New Door No.14 at Pulipone Bazaar Street, 3rd land, Triplicane, Chennai 600 005 comprised in Old Survey No.671 and New Survey No.671/9. One Dhanakotti Appa cousin brother of petitioners father, purchased the property in question on 25.09.1923 and died intestate on 29.07.1968. The said Dhanakotti Appa was unmarried and not having any legal heirs other than these petitioners. The petitioners father son of late Duraiswamy Appa who was the blood brother of late Muthusamy Appa who inherited the property as the second class legal heir to Dhanakotti Appa settled the said property in favour of the petitioners by way of settlement deed dated 23.03.2017 and since then, the petitioners are in possession and enjoyment of the property.

3. The HR&CE Department raised objection with regard to the property in question with the fourth respondent and the fourth respondent by referring the objection raised by the HR&CE Department has rejected the request of these petitioners for an electricity service connection without affording an opportunity to the petitioner.

4. In response to this writ petition, the second respondent Executive Officer, Thiruvetteeswarar Temple, Sanathi Street, Triplicane, Chennai, filed a counter affidavit stating that the said property comprised in S.No.671/9 was gifted to the temple by A.M.Dhanakotti Appa vide gift deed dated 10.06.1927 and the

same was registered as Document No.14/1927 on 14.06.1927 in the Sub Registrar Office Triplicane, in favour of Thiruvetteswarar Temple, Triplicane and thereafter the temple has also rented the said property to others. The learned counsel for the respondent has also produced certain documents.

5. He further submits that the Survey No.671/9 remained as a vacant site and these petitioners who obtained settlement deed with regard to the property in S.No.671, 671/4, has filed a rectification deed on 16.08.2019 in Document No.1050 /19, changed the Survey numbers in their schedule of the property from Survey No.671/4 to 671/9. The Sub Registrar, Triplicane, also mechanically registered the rectification deed without issuing any notice to the second respondent and without ascertaining the records.

6. Since the petitioners as well as the second respondent are claiming right over the property, this Court is not inclined to pass any order on this disputed question. Whether the petitioners are the owners of the property or the second respondent is the owner of the property can be decided only before the civil Court.

7. With the above observation, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is also closed. It is open to the petitioners to approach the competent civil Court for declaring their right over the property and thereafter, renew their application for electricity service connection.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Commissioner
Hindu Religious and Charitable Endowments Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.
2. The Executive Officer,
Thiruvetteswarar Temple,
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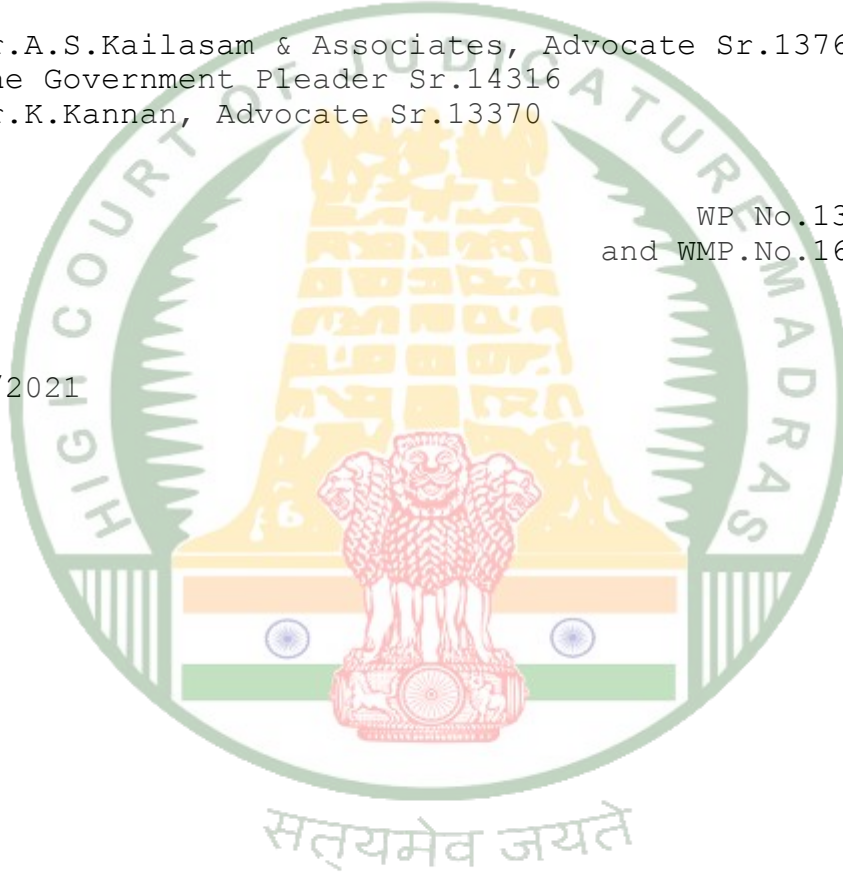
3. The Chairman cum Managing Director,
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4. The Assistant Engineer
Operation & Maintenance
Thiruvetteeswaranpet (Triplicane)
Chennai Distribution Circle/Central,
Chennai 600 002.

+1cc to Mr.A.S.Kailasam & Associates, Advocate Sr.13769
+1cc to the Government Pleader Sr.14316
+1cc to Mr.K.Kannan, Advocate Sr.13370

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srg 24/03/2021



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