



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM :

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.14090 of 2021
and
W.M.P.No.14968 of 2021

S.Mala ... Petitioner

-Vs-

1.The District Collector
Chennai District
Chennai - 600 001.

2.The Assistant Engineer
Operation & Maintenance
Tamil Nadu Electricity Board (West)
Nerkundram East, Koyambedu
Chennai - 600 107.

3.The Thasildar
Amaintthakarai Division
Chennai - 600 030.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the production of records relating to the order dated 25.02.2020 made in Na.Ka.No.A2/0330/2020 passed by the 3rd respondent herein, quash the same and direct the 3rd respondent to issue No Objection Certificate for grant of Electricity Service Connection to the house of the petitioner at No.1176/42, Thiruvalluvar Street, Mettukalam, P.H.Road, Koyambedu, Chennai - 600 107.

For Petitioner : Mr. S.Senthilnathan

For Respondents:Mr.U.Baranidharan, Government Advocate-
for RR1-3
Mr.L.Jaivenkatesh, Standing Counsel -
for R2

O R D E R

This writ petition has been filed challenging the impugned order of the third respondent dated 25.02.2020 refusing to grant 'No Objection Certificate' to the petitioner in order to enable the petitioner to get electricity service connection for his house property.



2. The case of the petitioner is that the subject property was originally in possession and enjoyment of her mother and when an attempt was made to evict the mother of the petitioner, a suit was filed in O.S.No.6563 of 1986 before the VIII Assistant City Civil Court, Chennai seeking for the relief of permanent injunction. The suit was decreed by a judgment and decree dated 29.10.2010.

3. It is further stated that the property was settled in favour of the petitioner by her mother and the petitioner is paying the property tax and water tax for the said property and that apart, there are also documents like the Passport and Aadhar Card to establish the fact that the petitioner is in possession and enjoyment of the property.

4. The petitioner approached the second respondent seeking for electricity service connection. The said request was rejected by the second respondent and the same became the subject matter of challenge before this Court in W.P.No.5040 of 2019.

5. This Court dismissed the writ petition by the order dated 22.02.2019. The relevant portions of the order are extracted hereunder.

" 3. The learned Standing Counsel for the respondents 1 to 3, disputing the contention made by the petitioner on the basis of the judgment reported in 2009 (4) CTC 606 cited supra that as per clause 27(2)(12) of the Tamil Nadu Electricity Distribution Code, supply should be given in Poramboke land on production of necessary documents, stated that since there has been a clear finding against the petitioner that she is only a trespasser the land covered in Survey No.149, she should also, as per Clause 27(2)(12) of the Tamil Nadu Electricity Distribution Code, produce a No Objection Certificate from the officer not below the rank of Deputy Tahsildar. In the present case, when there is a suit pending in O.S.No.6004 of 2016 on the file of the learned IV Assistant Judge, City Civil Court, Chennai seeking injunction against the petitioner, she cannot come to this Court challenging the impugned order without even producing the No Objection Certificate.

4. I also find merits on the reply given



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by the learned standing counsel for the respondents 1 to 3. A perusal of clause 27(2) (12) of the Tamil Nadu Electricity Distribution Code, which reads thus,

"(12) Supply shall be given in poromboke land on production of ---
(i) No Objection Certificate obtained from the Officer (not below the rank of Deputy Tahsildar)"

clearly shows that the petitioner should produce the No Objection Certificate from the Officer not below the rank of Deputy Tahsildar, which has not been produced. Secondly, there has been a dispute pending in O.S.No.6004 of 2016 on the file of the learned IV Assistant Judge, City Civil Court, Chennai seeking injunction against the petitioner. Thirdly, when a suit was already filed in O.S.No.6563 of 1986, there has been a finding recorded against the petitioner that she is a trespasser. For all these reasons, without producing the No Objection Certificate from the Officer not below the rank of Deputy Tahsildar and until the pending suit is disposed of, I do not find any justification to interfere with the impugned order passed by the third respondent. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.5744 of 2019 is also dismissed. No costs."

6. The above order was also confirmed by the Division Bench of this Court in W.A.No.1590 of 2019 by an order dated 30.04.2019.

7. Pursuant to the above order, the petitioner had approached the third respondent seeking for 'No Objection Certificate' and the same was refused by the third respondent through the impugned communication dated 25.02.2020. Aggrieved by the same present writ petition has been filed before this Court.

8. Heard Mr.S.Senthilnathan, learned counsel appearing for the petitioner, Mr.U.Baranidharan, learned Government Advocate appearing for the respondents 1 and 3 and Mr.L.Jaivenkatesh, learned Standing Counsel appearing for the second respondent.



9. Learned Government Advocate appearing for the first and second respondents submitted that the property in question is a private land and it is not a Government Poramboke land as claimed by the petitioner. The learned counsel further submitted that there was an objection given by one G.V.H.Prasad and due to his objection, the second respondent was not able to proceed further to give electricity service connection to the petitioner.

10. In reply to this submission, the learned counsel for the petitioner submitted that the above said G.V.H.Prasad had filed a suit in O.S.No.6004 of 2016 seeking for the relief of permanent injunction against the petitioner and others and the said suit was contested and after an elaborate trial, the suit was dismissed by judgment and decree dated 16.08.2019. The learned counsel submitted that this judgment has become final and no appeal was filed. The learned counsel specifically places reliance upon Para 10 of the judgment, wherein the above said G.V.H.Prasad had admitted the possession of the petitioner in the subject property. The learned counsel therefore submitted that, there is absolutely no reason as to why the second respondent cannot act upon the request made by the petitioner for electricity service connection.

11. This Court has carefully considered the submissions made on either side and the materials available on record.

12. In the previous proceedings, there were two grounds that were put against the petitioner. The first one is that the petitioner did not produce a 'No Objection Certificate' from the Tahsildar. There is no requirement for producing the 'No Objection Certificate' from the Tahsildar since the property in question is not a Government Poramboke land and it is a private property. This stand has been specifically taken by the third respondent even in the written instructions that was given to the learned Government Counsel.

13. The other ground that requires consideration is whether the second respondent should act upon the objection given by one G.V.H.Prasad to deny the electricity service connection to the petitioner. It is seen from the records that the suit filed by G.V.H.Prasad against the petitioner and others in O.S.No.6004 of 2016 was dismissed by judgment and decree dated 16.08.2019 and there was a specific admission on the part of G.V.H.Prasad that the petitioner is in possession of the property. Of course, he has complained that the petitioner had trespassed into the property and taken possession. The manner in which the petitioner had taken possession is irrelevant insofar as the present proceedings are concerned. This Court must only see if there is any valid objection which prevents the petitioner from



getting the electricity service connection under the relevant regulations.

14. In view of the above discussion, the writ petition is disposed of with the direction to the petitioner to make a fresh application to the second respondent seeking for electricity connection. The second respondent shall scrutinise the relevant documents and after ensuring the possession of the petitioner, shall provide the electricity service connection after receiving the necessary charges and also the indemnity bond from the petitioner. This process shall be completed by the second respondent within a period of four weeks from the date of receipt of the application from the petitioner.

15. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

KST

To

1.The District Collector
Chennai District, Chennai - 600 001.

2.The Assistant Engineer
Operation & Maintenance
Tamil Nadu Electricity Board (West)
Nerkundram East, Koyambedu
Chennai - 600 107.

3.The Thasildar
Amainthakarai Division
Chennai - 600 030.

+1cc to Mr.S.Senthil Nathan, Advocate, S.R.No.38377
+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.38546
+1cc to the Government Pleader, S.R.No.38465

W.P.No.14090 of 2021

AK-II(CO)
SB(16/08/2021)