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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 14.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14494 of 2021 and
WMP No.15385 of 2021.

Muthusamy

.... Petitioner

Vs.

1. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai, Chennai-2.
 2. The Executive Engineer (Operation and Maintenance),
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
R.Goundampalayam, Rasipuram Taluk,
Namakkal District.
 3. The Assistant Engineer (Operation and Maintenance),
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
R.Pudupalayam, Rasipuram Taluk,
Namakkal District.
 4. T.P.Sekar
- ... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India to issue a writ of Mandamus forbearing the respondents 2 and 3 or their men or agents from providing electricity service connection to the unauthorized and unapproved housing plots existing in the patta land belongs to the petitioner comprised in SF.No.77/5A at Moolakadu Village, Rasipuram, Namakkal District.

For petitioner : Mr.R.Nalliyappan

For respondents Mr.Abdul Kalam TNEB
for R1 to R3.



ORDER

This writ petition has been filed to issue a writ of Mandamus forbearing the respondents 2 and 3 or their men or agents from providing electricity service connection to the unauthorized and unapproved housing plots existing in the patta land belongs to the petitioner comprised in SF.No.77/5A at Moolakadu Village, Rasipuram, Namakkal District.

2. According to the petitioner, he is the owner of the property comprised in SF NO.77/5 at Moolakadu Village, Rasipuram District, Namakkal District to an extent 2.20 acres. A civil dispute had arose between him and the fourth respondent with regard to the sub-division made in S.F.No.77/5 as 77/5A1 and 77/5A2, which is covered the agricultural land, including a portion of the property belongs to the petitioner to an extent of 57 cents. Therefore, on application given by the petitioner, the Sub Collector, Namakkal had cancelled the afore said sub-division. Against which, the one Senthilkumar filed a writ petition in W.P.No.28771 of 2012 before this court and this court vide order dated 17.04.2012 had set aside the above order and remanded back to the Sub Collector, directing him to pass order, after providing opportunities. Finally, based on the sale deeds, the Sub Collector had cancelled the Sub Division on 21.03.2016. Consequently, the Tahsildar, Rasipuram was directed to sub-divide the property based on the title deeds of the petitioner and the fourth respondent. On inspection with the help of Taluk Surveyor, the Tahsildar found that the 4th respondent has encroached the property of the petitioner to an extent of 57 cents and he had converted the same into housing plots. Further, on a suit filed by the petitioner in O.S.No.200 of 2008 seeking permanent and mandatory injunction with respect to the subject matter of the property, the Trial Court vide decree dated 8.11.2017 had decreed the suit as prayed for and ordered for restoration of the possession. Against the afore said decree, the 4th respondent had filed A.S.NO.32 of 2018 and the appeal was allowed in part by holding that the petitioner is entitled for declaration and possession with respect to the properties stands in the name of the petitioner vide sale deed dated 23.11.1981. The fourth respondent has not filed any second appeal so far. The petitioner has also filed execution proceedings and the same is now pending before the Principal District Judge, Namakkal.

3. Now, the petitioner came to know that 4th respondent and others had filed an application for the respondents R2 and R3 to provide electricity service connection for the unauthorized construction put up in the afore said patta land, which is belongs to the petitioner, by making encroachment.



Hence, the petitioner has issued a legal notice dated 09.10.2020 to the respondents R2 and R3 not to provide any electricity service connection to the superstructures, which exist in the petitioner's patta land and the same was also received by them. However, due to the political pressure caused by the 4th respondent, the third respondent is taking hectic steps to provide electricity service connection. Hence this writ petition.

4. The learned counsel appearing for the respondents R1 and R2 submitted that the petitioner has given only a legal notice to the respondents, which cannot be entertained for seeking the relief of Writ of Mandamus. He further submitted that if the petitioner give representation to the third respondent, it will be considered by the authorities concerned in accordance with law.

5. Inview of the above said discussions, this court directs the petitioner to make representation to the third respondent, within a period of two weeks from the date of receipt of a copy of this order and on such representation being made by the petitioner, the third respondent is directed to consider the same in accordance with law, and pass appropriate order, within a period of twelve weeks from the date of receipt of the representation.

6. With the above direction, this writ petition is disposed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
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