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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16778 of 2021
and
W.M.P.Nos.17747 and 17749 of 2021

A.Pappathi

...Petitioner

-Vs-

- 1 The Chairman
Tamil Nadu Electricity Board 800
Anna Salai Chennai.
- 2 The Executive Engineer
Tamil Nadu Generation and Distribution
Corporation Ltd Tiruppur Electricity
Distribution Circle Avinashi - 641 654
Tiruppur District.
- 3 The Assistant Engineer
(Operation and Maintenance) Tamil Nadu
Generation and Distribution Corporation Ltd
Tirumuruganpoondi - 641 652 Tiruppur District.
- 4 P. Samiappan ... 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 records relating to the impugned order dated 22.07.2021 made in Lr. NO. AEE / TMP / Va. Aa / File-Complaint / A.NO. 036 / 21-22 passed by the 3rd respondent, quash the same consequently forbear the respondents 1 to 4 from in any way disconnecting the petitioners electricity connection S. C. NO. 163-001-2297 given in S. F. NO. 481/6 5th Main Street Thirumuruganpoondi Avinashi Taluk Tiruppur District.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Abul Kalam, Standing Counsel



O R D E R

This writ petition has been filed challenging the impugned order issued by the third respondent dated 22.07.2021 and for a consequential direction to forbear the respondents 1 to 3 from in any way disconnecting the electricity connection.

2. Heard Mr.N.Manokaran, learned counsel for the petitioner and Mr.M.Abul Kalam, learned Standing Counsel for the respondents 1 to 3.

3. It is seen from records that the petitioner had earlier approached this Court and filed W.P.No.13063 of 2015 with the very same grievance and this Court, after taking into consideration the pendency of the suit in O.S.No.145 of 2014, passed the following order.

" 2. There appears to be inter se dispute between the petitioner and the fourth respondent being sister and brother. Suits are also pending at the instance of both sides. In the meanwhile, the petitioner sought for a service connection, which was rejected by the impugned order by quoting the pendency of the suits and the objections raised by the fourth respondent.

3. Granting service connection has got no relevancy to the pending suits. This Court is not deciding the title inter se parties. The petitioner is stated to be in possession of the extent for which the service connection is sought for. If the fourth respondent succeeds in the pending suits, the service connection will go to him. The statement made by the learned counsel for the petitioner that she will not raise any claim to service connection, is also recorded.

4. The question is as to whether the service connection is sought for in the name of petitioner's brother or otherwise is irrelevant. Needless to state that in view of the undertaking given by the learned counsel for the petitioner orally, there is no difficulty in allowing the Writ Petition. Accordingly, the Writ Petition is allowed and the impugned order is set aside. Consequently the third respondent is directed to effect service connection to the premises at Door No.4/153, 5th Main Road, Thirumuruganpoondi, Avinashi Taluk, 641652. It is made clear that this order is subject to the result of the pending suits. It is also made clear that no equity will be claimed by the petitioner. Based upon the decree of the Civil



Court, the service connection will go along with. Appropriate service connection will be given, within a period of four weeks from the date of receipt of a copy of this order.

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5. A direction is issued to the District Munsif Court, Avinashi to close the relief no.(c) sought for in so far as mandatory injunction against the Electricity Department is concerned in O.S.No.145 of 2014 on the file of the District Munsif Court, Avinashi. The jurisdiction of the Civil Court will have to be decided in the Suits on their own merits without being influenced by this order passed. No costs."

4. Learned counsel for the petitioner submitted that O.S.No.622 of 2016 which was filed by the sister of the petitioner was dismissed and O.S.No.250 of 2016 filed by the fourth respondent seeking for the relief of partition was decreed and a preliminary decree has been passed by judgment and decree dated 13.02.2020. As against the said decree, an appeal has been filed by the petitioner in A.S.No.90 of 2020 and the same is pending on the file of the District Court, Tirupur. However, the fact remains that, the suit in O.S.No.145 of 2014 is still pending and it is at the stage of trial.

5. The petitioner, immediately on receipt of the impugned letter from the third respondent, has given a detailed representation on 26.07.2021 and explained the entire facts and has requested the third respondent not to disconnect the electricity connection due to the pendency of the civil suit and the earlier order passed by this Court in W.P.No.13063 of 2015. It was brought to the notice of this Court that the service connection was disconnected and thereafter, on issuance of a legal notice, it was immediately restored. The apprehension of the petitioner is that, in spite of the representation given by the petitioner, there are chances of the third respondent acting in a hasty manner and once again disconnecting the service connection. Therefore, the present writ petition has been filed before this Court.

6. In the considered view of this Court, the petitioner has given a detailed reply / representation on receipt of the impugned letter dated 22.07.2021 from the third respondent. The third respondent has to necessarily await for the final judgment in the suit that is pending in O.S.No.145 of 2014 and this was made clear in the earlier order passed by this Court in W.P.No.13063 of 2015 dated 04.04.2017. It is enough if this clarity is given to the third respondent, who shall await the final judgment in the pending suit and the pending appeal.



7. This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

1.The Chairman,
Tamil Nadu Electricity Board 800
Anna Salai Chennai.

2.The Executive Engineer,Tamil Nadu Generation and Distribution
Corporation Ltd Tiruppur Electricity Distribution Circle
Avinashi - 641 654, Tiruppur District.

3.The Assistant Engineer (Operation and Maintenance) Tamil Nadu
Generation and Distribution Corporation Ltd
Tirumuruganpoondi - 641 652 Tiruppur District.

+1cc to M/s.N.Manokaran, Advocate, S.R.No.39692

W.P.No.16778 of 2021

SJ(CO)
SB(16/08/2021)