

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 4.2.2021

CORAM

THE HON-BLE MR.JUSTICE B.PUGALENDHI

W.P.No.16690 of 2019
and
W.M.P.No.16314 of 2019

M.Natesan

: Petitioner

vs.

1. The Executive Engineer, (O&M)
TANGEDCO
Namakkal Electricity Distribution Circle,
Paramathi Velur Division,
Namakkal District.
2. The Assistant Executive Engineer, (O&M)
TANGEDCO, Nallur, Paramathi-Velur Taluk,
Namakkal District.
3. The Assistant Engineer (O&M)
TANGEDCO, Sithalanthur-637 201.
4. Thulasimani,
5. Baby
6. Kaveri @ Pappathi

: Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the impugned proceedings in Lr.No.AE/O&M/Sith/Ko.Thani/A.No.203/18-19/ dated 17.9.2018 of the 3rd respondent which seeks to produce the NOC from other legal heirs, quash the same and consequently direct the respondents 1 to 3 to grant agricultural electricity service connections on Application No.EEV/A207/98~99 dated 19.11.1998 for S.F.No.239/2 and Application No.EE/PV/A208/98~99 dated 19.11.1998 for S.F.No.239/4 submitted by the petitioner-s father, to the agricultural open wells situated in S.F.No.239/2 and 239/4 of Kuppirikkapalayam Village, Paramathi Velur Taluk, Namakkal District to petitioner?s name forthwith.

For Petitioner : Mr.R.Prabakar

For RR1 to 3 : Mr.Damodaran, Standing Counsel

For RR4 and 5 : Mr.T.L.Thirumalaisamy

ORDER

This writ petition is filed as against the proceedings of the third respondent dated 17.9.2018. By this impugned communication, the third respondent has directed the petitioner to furnish the -no objection certificate- from the joint pattadhars alongwith the death certificate of his father.

2. The case of the petitioner is that his father Muthusamy Gounder applied for Agricultural Service Connection in S.No.239/2 and 239/4 of Kuppirikkapaayam, Paramathi Velur Taluk, Namakkal District. His father died on 28.2.2016 leaving behind him the petitioner and his sisters Kaveri, respondent No.6 and Nallammal, mother of respondents 4 and 5. There is no objection from respondent No.6 the other daughter of Muthusamy Gounder whereas the legal heirs of Nallammal respondents 4 and 5 have certain objections with regard to partition of the property and a partition suit is also pending between the parties in O.S.No.261 of 2018 before the Principal District Court, Namakkal. In view of this position, the petitioner could not avail the electricity service connection though he has been sanctioned with electricity service connection on seniority basis.

3. Mr.Thirumalaisamy, learned counsel appearing for respondents 4 and 5 would submit that since the issue is pending between the parties in the Civil Court for partition of the property and the joint patta stands in the name of respondents 4 and 5 also, the service connection could be granted in the name of all the legal heirs of Muthusamy Gounder.

4. Mr.R.Prabakar, learned counsel appearing for the petitioner, by referring to the provision under Regulation 5(7) of the Tamil Nadu Electricity Supply Code, 2004, would submit that he is also prepared to execute the Indemnity Bond as provided under the Supply Code.

5. The relevant portion of Regulation 5(7) of the Tamil Nadu Electricity Supply Code reads as follows:-

"Name transfer charge. - (i) Every application for transfer of name consequent to the death of the consumer shall be in Form 1 [in Appendix to this Code] accompanied by -

- (a) legal heirship certificate from the Tahsildar concerned or proof of ownership such as local body tax receipts (latest);
- (b) no objection certificate from other legal heirs, if any, (or) an indemnity bond in Form 3 in Appendix to this Code on non-judicial stamp paper for a value of Rs.80/- and a sworn-in affidavit and authenticated by a Notary Public or by a Gazetted Officer to show the status of other legal heirs;
- (c) fresh application with fee to be specified by the Commission and agreement form."

6. A perusal of the above provision reveals that in the absence of consent letter, on execution of Indemnity Bond, the request of the petitioner can be considered. In this case there are only three legal heirs viz., the petitioner and sixth respondent and Nallammal, mother of respondents 4 and 5 and there is no objection from respondent No.6 whereas respondent 4 and 5 are not having any serious objection for the service connection being effected in the name of all the legal heirs.

7. Therefore, the writ petition is allowed with a direction to effect service connection as per Regulation 5(7) of the Tamil Nadu Electricity Supply Code 2004 in the name of all the legal representatives of the deceased Muthusamy Gounder subject to the Partition Suit pending within a period of three weeks from the date of receipt of a copy of this order. No order as to costs. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk

To

1. The Executive Engineer, (O&M)
TANGEDCO
Namakkal Electricity Distribution Circle,
Paramathi Velur Division,
Namakkal District.

WEB COPY

2. The Assistant Executive Engineer, (O&M)
TANGEDCO, Nallur, Paramathi-Velur Taluk,
Namakkal District.

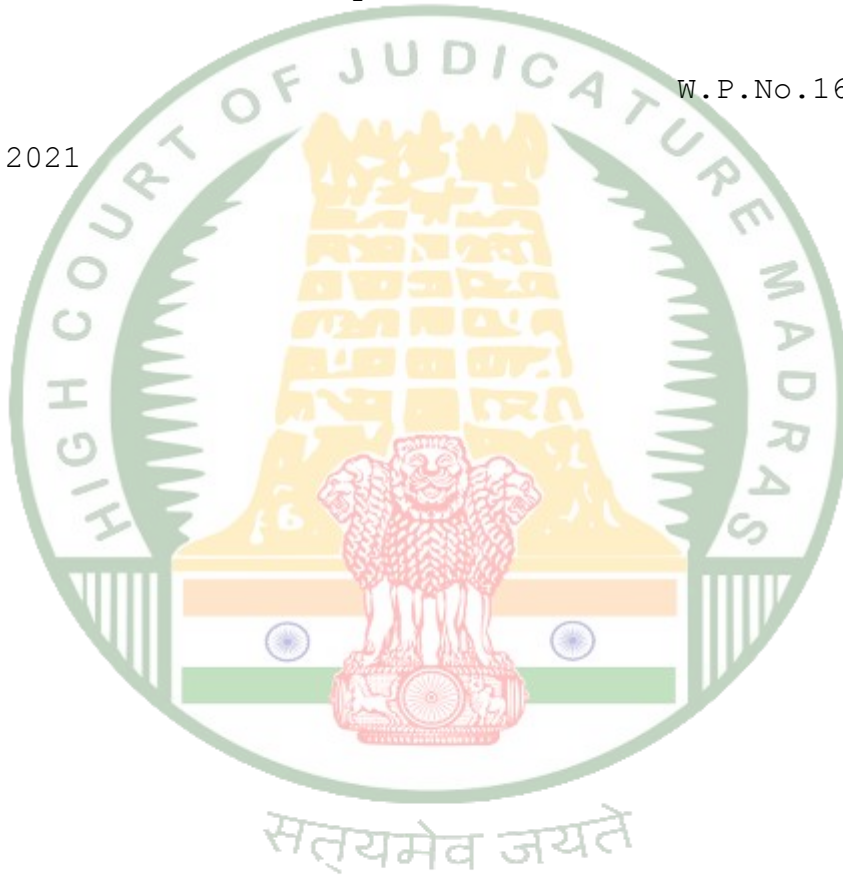
3. The Assistant Engineer (O&M)
TANGEDCO, Sithalanthur-637 201.

+1cc to Mr.R.Prabakar, Advocate, S.R.No.6715.

+1cc to Mr.T.C.Thirumalaisamy, Advocate, S.R.No.6043.

W.P.No.16690 of 2019

NRL (CO)
CSR 19.03.2021



WEB COPY