



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.32714 of 2014

G.Thangam

... Petitioner

Vs.

1.The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Maraimalainagar,
Kancheepuram District- 603 209.

2.The Junior Electrical Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Tiruporur,
Kancheepuram District,
Pincode-603 110.

3.The District Collector,
Chengalpattu District.

...Respondents

(R - 3 is suo motu impleaded vide Court order dated 21.12.2021)

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus Directing the Respondents to give domestic electricity connection to the Petitioner's house at S.No.287/2A M.G.R. Street, Nellikuppam Village.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.L.Jai Venkatesh
1 & 2 for TANGEDCO

For Respondent 3 : Mr.M.Rajendiran
Additional Government Pleader



O R D E R

The relief sought for in the present Writ Petition is to direct the respondents to give domestic electricity service connection to the Petitioner's house at S.No.287/2A, M.G.R. Street, Nellikuppam Village.

2. The petitioner states that he is in possession and enjoyment of the property at Kancheepuram District, Tiruporur Taluk, No.100, Nellikuppam Village bearing S.No.287/2A to an extent of 8355 Sq.ft.,.

3. The Petitioner states that his father, V.Govindasami was in possession and enjoyment of a larger extent of land in the said S.No.287/2A, which includes the subject property. The father of the petitioner partitioned the property and the large extent of property was divided between the legal heirs of the said Govindasami. The petitioner states that he purchased the property from his brothers, G.Suresh Babu and G.Prabhu and from then he was in possession of the same.

4. The petitioner would further state that he had filed a Civil Suit in O.S.No.555 of 2014 against one Balaraman, who is the brother of the petitioner's father, who is also claiming right over the said property. The petitioner states that he approached the 2nd respondent for electricity service connection in his house and the application was rejected. Thus, the petitioner is constrained to move the present Writ Petition.

5. The learned counsel for the petitioner made a submission that even if any dispute exists between the parties, under Clause 27 (2) (4) and Clause 27 (2) (12) of the Tamil Nadu Electricity Distribution Code, the board authorities have to provide service connection. In such event the applicant shall execute an indemnity bond and pay necessary charges. In this connection, the petitioner relied on the Judgment of this Court reported in 2009 (4) CTC 606 - A.Muthusamy and others Vs. The Assistant Engineer, Tamil Nadu Electricity Board. The said position is reiterated, wherein, Clause 27 (2) (4) of the Tamil Nadu Electricity Distribution Code has been referred and the electricity service connection is directed to be provided on execution of indemnity bond.

6. The learned counsel appearing on behalf of the respondent board objected the said contention by stating that the land is Paromboke land comes under Chengalpattu EDC - Maraimalai Nagar Division - Thiruporur Section. The petitioner has not produced any NOC from the Deputy Tahsildar and therefore, the petitioner is not entitled for the electricity service connection.



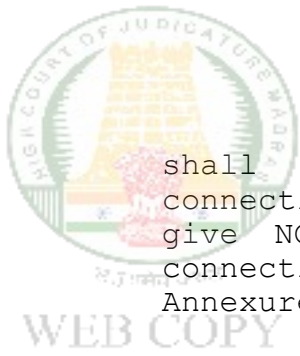
7. It is reiterated that in the absence no objection from the owners, the electricity service connection cannot be provided. In the present case, it is the Government Poromboke land and therefore, the petitioner has to produce No Objection Certificate. Thus, the application submitted by the petitioner for providing electricity service connection cannot be considered at all.

8. No doubt, in respect of any disputes between the parties regarding the ownership or title, the electricity service connection may be provided on execution of indemnity bond. However, those disputes between the parties cannot be referred to in respect of Poromboke land, wherein, the land belongs to the Government. The Government has not assigned the said land or issued any No Objection Certificate for the purpose of providing electricity service connection. In the absence of any such recognition by the Government, an encroacher cannot seek any electricity service connection merely referring Clause 27(2) (12) of the Tamil Nadu Electricity Distribution Code.

9. Let us now consider the scope of the Tamil Nadu Electricity Distribution Code. Clause 27 of the Code, deals with the requisition for supply of energy/electricity. Clause 27 (2) (4) of the Code contemplates that "an intending consumer who is not owner of the premises occupies shall produce a consent letter Form 5 of Annexure III to this Code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produced proof of his / her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III of this code indemnifying the licensee against any loss on account of the disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate".

10. In the context of Clause 27(2) (4), this Court has to examine the circumstances under which the electricity service connection shall be provided to a person, who is not an owner or in the event of any dispute. An intending consumer, who is not an owner of the premises in occupation in normal circumstances has to get No Objection Certificate from the owner. In the event of refusal from the owner, he has to execute an indemnity bond in Form 6 of the Annexure III for the purpose of getting electricity service connection. Importantly, Clause 27(2) (4) unambiguously stipulates that the consumer shall produce proof of his / her being in lawful occupation of the premises and also execute an indemnity bond.

11. Thus, the conditions stipulated in Clause 27(2) (4) of the Code is that the applicant must be in lawful occupation of the premises. The whole provision indicates that a person who is in lawful occupation of the premises



shall submit an application seeking electricity service connection and in the event of any refusal by the owner to give NOC, he is entitled to get the electricity service connection by executing an indemnity bond in Form 6 of the Annexure III of the Tamil Nadu Electricity Distribution Code.

12. However, a person who is in unlawful possession is not entitled to seek any electricity service connection in respect of Poromboke or any premises. The provision intends to give electricity service connection to the persons who all are in lawful possession.

13. Let us now consider Clause 27 (2) (12) of the Code contemplates that "Supply shall be given in Poromboke land on production of necessary documents as per the directive from the Government from time to time"

14. The provision has to be interpreted constructively, so as to ensure that the legal occupations are recognized and no statute or Rules would intend to provide benefit for a person, who is committing an act of illegality. In general parlance, any illegality or unlawful act can never be recognized in the statute. In such circumstances, if any ground is taken, the Court is bound to interpret constructively so as to ensure the purpose and object of the statute, rules which are sought to be achieved.

15. In this context, let us now consider the scope of clause 27 (2) (12) of the Tamil Nadu Electricity Distribution Code, which contemplates that supply shall be given in Poromboke land on production of necessary documents as per the directives from the Government. The provision is intended to provide electricity connection in the Poromboke land in respect of the lands assigned by the Government or in the event of grant of Patta by the Government to the persons. In other words, the persons holding valid document includes patta or assignment granted by the Government or otherwise but not in respect of the encroachers, who all are in illegal occupation of Government Poromboke.

16. Thus, as pointed out earlier, law will not intend or provide benefit for the persons who are committing illegalities, irregularities or an act of unlawfulness. The above provisions must be interpreted in a pragmatic manner and purposive interpretation is more important to ensure that the object is achieved. Merely because the provision contemplates that electricity service connection shall be given in a Poromboke land does not mean that every encroacher of Government land is entitled to get electricity service connection from the TANGEDCO. The provision unambiguously stipulated that supply shall be given on production of necessary documents as per the directives from the Government.



17. Let us consider the directive from the Government. The directive from the Government indicates that if the property is assigned or Patta has been granted in favour of any person, it is to be construed as that such person is in lawful occupation. In the absence of any such valid document issued by the Government, no person is entitled to get electricity service connection in respect of Poromboke land. The Encroacher or illegal occupants can never be recognized for the purpose of providing facilities. Encroachers are liable to be evicted. All the Government lands are meant for public usage and for the welfare of the public at large.

18. The land grabbers / encroachers if encouraged, no doubt, the same would pave way for further illegalities and irregularities. Therefore, the interpretation of the Tamil Nadu Electricity Distribution Code is of paramount importance for the purpose of providing electricity service connection, more specifically, in Government Poromboke lands.

19. The Judgment relied upon by the petitioner is of no avail as the interpretation of the Tamil Nadu Electricity Distribution Code has not been considered and further the facts are dissimilar. In the present case, it is a Poromboke land which is in occupation of the petitioner and therefore, he cannot be construed as a person, who is in lawful occupation of the premises and consequently the petitioner is not entitled for the relief sought for in the present Writ Petition.

20. It is brought to the notice of this Court that larger extent of Government land is encroached upon by the petitioner and his family members. The land value in that locality have increased and the Government authorities are bound to ensure that the encroachers are evicted and the public lands are utilized for the benefit of the public at large. When larger extent of Government Poromboke lands are under encroachment, the public authorities are bound to ensure that all such encroachments are evicted and such valuable lands are made available for the benefit of public at large and for establishing public institutions or otherwise.

21. This Court is of the opinion that the District Collector has to be impleaded, accordingly, the District Collector, Chengalpattu District is suo motu impleaded as the 3rd respondent, for the purpose of looking into the issues relating to the encroachments and initiate all appropriate actions by invoking the provisions of the Tamil Nadu Land Encroachment Act, 1905. Mr.M.Rajendiran, learned Additional Government Pleader takes notice for the newly impleaded respondent.



22. As far as the present Writ Petition is concerned, the provisions relied on by the learned counsel for the petitioner is of no avail, as the petitioner is in unlawful occupation and an encroacher. Thus, the Writ Petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

shr/kan

To

1.The Superintending Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Maraimalainagar,
Kancheepuram District-603209.

2.The Junior Electrical Engineer,
Tamilnadu Generation and Distribution
Corporation Ltd. (TANGEDCO)
Tiruporur,
Kancheepuram District,
Pincode-603110.

3.The District Collector,
Chengalpattu District.

+1cc to Government Pleader SR. No.69526
+1cc to Mr.L.Jai Venkatesh, Advocate SR. No.68560
+1cc to Mr.S.Sivakumar, Advocate SR. No.68901

W.P.No.32714 of 2014

UM (CO)
PR (28/02/2022)