

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

W.P.No.17451 of 2020
and WMP No.21634 of 2020

C.Gopalakrishnan

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai - 600 002.

2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Kancheepuram District.

3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Ayyempettai,
Wallajahbad Taluk,
Kancheepuram District.

4. K.Devaraj
5. T.Thangavel
6. T.Balusamy
7. B.Boopalan
8. B.Anandhan
9. A.Thanigaimalai
10.Moorthy
11.Subramani
12.Selvaraj

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 to 3 from granting new electricity service connection to the private respondents in Survey Nos.60, 64, 65, 63, 66, 67/1, 41/3 and 41/1 in patta No.205 at Kandarpur Street, Iyyempettai, Wallajahbad Taluk, Kancheepuram District.

For Petitioner : Ms.C.Meena
for Mr.M.Guruprasad

For Respondents 1 to 3 : Mr.P.Gunaraj
Standing Counsel

For Respondents 4 to 12 : Mr.K.V.Babu

O R D E R

The petitioner, who is a member of Sengundar Samuthayam of Ayyempettai Village, has filed this writ petition to forbear the respondents 1 to 3 from granting new electricity service connection to the private respondents in Survey Nos.60, 64, 65, 63, 66, 67/1, 41/3 and 41/1 in patta No.205 at Kandarpur Street, Iyyempettai, Wallajahbad Taluk, Kancheepuram District.

2. The case of the petitioner is that in Ayyempettai Village, the Sengundar Samuthayam consisting of weavers Samuthayam is having land as Thoppu and patta was originally granted in the name of Gramanigal of Kadappur Street. The Thoppu was utilised by the weavers for pavvu and every family is headed by one senior most manager of the family. There may be adult sons and they do not have recognition on account of marriage which has been the customs and usage in the whole Iyyempettai Village, especially in Kadappur Street. Only 54 families are entitled to the share in the subject property and by reason of marriage or by attaining the age of 18 years, no person can acquire any right in the Samudhayam and they are still under the control of the head of the family. Among the 54 families, one faction started demanding that every body who is attaining 18 years should be given a share in the subject property. This was objected by the other group stating that it has to be divided equally to 54 families. Since the issue did not resolve, a suit was filed in O.S.No.286 of 1997 before the District Munsif Court, Kancheepuram, for permanent injunction against the Gramanigal but the same was dismissed for default in the year 2001. In such circumstances, the private respondents who were allotted some plots are now trying to construct houses without approval or permission from the competent authority. Hence, the present writ petition.

3. Learned counsel for the petitioner submits that the Thoppu is meant for the Samudhayam and 54 families are entitled for a share though the land stands in the name of Gramanigal and the Gramanigal is the authority to file application before the Tahsildar for transfer of patta. When the patta was transferred by the Tahsildar, Kancheepuram, on

08.01.2013, from one Krishnan and Ekambaram's name to N.Nataraja Mudaliar and S.Mohanavel Mudaliar's name, a Writ Petition came to be filed before this Court in W.P.No.34785/2013 and the same was disposed of as follows:

"4. In the present writ petition on hand, admittedly in O.S.No.9 of 2012 is pending. Thus, the 2nd respondent ought not to have issued patta under "the Act". However, the patta issued in favour of the respondents 4 and 5 are contrary to the provisions of "the Act".

5. Under these circumstances, the respective parties are at liberty to approach the competent authorities by filing fresh applications for grant of patta under "the Act" only after the conclusion of the civil proceedings pending before the Civil Court. Till such time, the competent authorities shall not adjudicate any patta proceedings in respect of the immovable property in question in this writ petition.

6. Accordingly, the impugned order issued by the second respondent in proceedings in Patta No.205 dated 08.01.2013 is kept in abeyance till the conclusion of the civil proceedings pending between the parties.

7. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs."

4. Learned counsel for the petitioner submitted that based on the order passed by this Hon'ble Court, one Mohanavel Mudaliar and Nataraja Mudaliar who are parties to the writ petition started to allot the plots of the unapproved layout to the private respondents and they are attempting to construct houses without any approval or permission from the said Samudhayam and from the competent authority.

5. The 3rd respondent filed a counter affidavit stating that the respondents 6, 10 and 11 have applied for service connection and the 2nd respondent, after obtaining legal opinion from the Board counsel effected service connection in favour of the said respondents.

6. Mr.P.Gunaraj, learned Standing Counsel appearing for the Electricity Board submitted that the service connections were effected as per rules and regulations of the Electricity Board and the applicants have produced their sale deed and patta copy and only based on the above said documents, service connections were effected to the consumers.

7 .In view of the said submission made by the learned Standing Counsel appearing for the Electricity Board, the Writ Petition is disposed of with liberty to the petitioner to work out his remedy before the competent Civil Court in the manner known to law, if he is so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

vsi

To

- 1.The Chairman,
Tamil Nadu Elect' Board,
Anna Salai, Chennai - 600 002.
2. The Superintendent Engineer,
Tamil Nadu Electricity Board,
Kancheepuram District.
3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Ayyempettai, Wallajahbad Taluk,
Kancheepuram District.

+1cc to Mr.P.Gunaraj, Advocate SR.No.20287

+1cc to Mr.K.V.Babu, Advocate SR.No.20081

W.P.No.17451 of 2020

PMK (CO)

GMV (16/06/2021)

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