



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.21153 OF 2021

AND

W.M.P.NO.22445 OF 2021

Hazarath Syed Sadik Volliyyullah
Dharge & Mosque Trust
Represented by its Managaing Trustee, S.Ajaz

... Petitioner

/Vs/

1. The Assistant Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation, O&M, Tangedco,
Se.Ml.Pa.Taluk(South), Mangadu Division,
Mangadu, Chennai - 600 122.

2. P.Ilayarasu

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying Writ of Madamus, directing the first respondent to disconnect the Temporary Electricity connection bearing No.233-009-4054 granted to the second respondent in the petitioner's property situated at Mangadu comprised in S.No.101/1A, 111, 101/3, 11.04 Acres, bearing Plot No.8, Syed Sadiq Nagar, Mangadu, Chennai - 600 122.

For Petitioner : Mr.M.J.Jaseem Mohammed

For R1 : Mr.L.Jaivenkatesh
Standing Counsel

For R2 : Mr.B.Sundarapandiyan



ORDER

This writ petition has been filed for issuance of direction to the first respondent to disconnect the Temporary Electricity connection bearing No.233-009-4054 granted to the second respondent in the petitioner's property situated at Mangadu comprised in S.No.101/1A, 111, 101/3, 11.04 Acres, bearing Plot No.8, Syed Sadiq Nagar, Mangadu, Chennai - 600 122.

2. The case of the petitioner is that he is a representative of the Managing Trustee of the Hazarath Syed Sadik Volliyullah Dharga & Mosque Trust, which was established as per Section 5 of the Trust Act, 1882, and was duly registered under the Tamil Nadu Registration Act, 1908, as Document No.130/BK-IV/1995 dated 06.04.1995 in the office of the Sub-Registrar, Kundrathur. During the year 1995, the Trust formed a layout in S.Nos.101/1A, 111, 101/3 measuring to an extent of 11.04 Acres in the name and style of "SYED SADIQ NAGAR" and allotted the said lands to poor, downtrodden and economically weaker sections of the people and since one Abdul Karim created problem to the Trust activities, the erstwhile trustee namely one Muhammed Ismail filed a suit in O.S.No.100 of 2008 before the District Munsif Cum Judicial Magistrate, Sriperumbudur and the same was decreed on 21.11.2011 stating that no one is entitled to issue patta or lease in favour of any other persons. However, the second respondent by way of misrepresentation created a bogus lease agreement as signed by one Abdul Karim who is a party in the above said suit and it appeared that the second respondent obtained No Objection Certificate dated 21.07.2020 from a person who is not connected to the Trust and thereby obtained electricity connection. Objecting the electricity connection granted in favour of the second respondent, the petitioner made a representation dated 09.03.2021 to the first respondent seeking to disconnect the electricity connection, however, no order was passed on the said representation. Hence, this present writ petition has been filed.

3. Mr.M.J.Jaseem Mohammed, learned Counsel appearing for the petitioner submitted that this Court may issue a direction to the first respondent to consider the petitioner's representation dated 09.03.2021 within a reasonable time as fixed by this Court.

4. Mr.S.B.Sundarapandiyan, learned counsel appearing for the second respondent submitted that the petitioner admittedly obtained a Lease Agreement dated 09.10.2016 from the erstwhile trustee and thereafter, obtained No objection Certificate dated 21.07.2020 from the trust and also obtained service connection in his favour from the first respondent. It is further submitted that the issue in the present case relates to disputed question of fact which cannot be decided by the electricity officials and



only by the competent Civil Court. Without approaching the competent Civil Court to nullify the lease deed granted in favour of the second respondent, entrusting the matter to the Electricity Board is not a sustainable one and prayed for the dismissal of the writ petition.

5. Mr.L.Jaivenkatesh, learned Standing Counsel appearing for the first respondent submitted that the electricity connection was effected only based on the Lease Agreement dated 09.10.2016 registered as Document No.180/4/1995 and the No Objection Certificate produced by the second respondent dated 21.07.2020, which is purely a civil dispute between the petitioner and the second respondent, the same has to be decided only by the competent Civil Court.

6. The facts in the case is not disputed and the petitioner's claim is that the lease agreement obtained from one Abdul Karim is a forged one and further No Objection Certificate was issued in favour of the other persons by persons who are not competent nor do they have power on behalf of the Trust to issue such certificate. It was further admitted that there was a suit filed against the said Adbul Karim and the said suit was decreed in favour of the petitioner, Trust in the year 2011. However, the lease deed was executed on 09.10.2016 by one Abdul Karim, after five years of the decree. Whether the lease deed in favour of the second respondent is a valid one or not, has to be decided only by the competent Civil Court by adducing evidence by both the parties and cannot be decided under Article 226. Hence, first respondent/ Electricity Board has no power to decide the issue raised in the present writ petition.

7. In view of the above submission, the prayer sought for in this writ petition cannot be granted. However, this Court is inclined to grant liberty to the petitioner to file appropriate civil suit in the manner known to law.

8. With the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gba



To

The Assistant Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation, O&M, Tangedco,
Se.Ml.Pa.Taluk(South), Mangadu Division,
Mangadu, Chennai - 600 122.

+1cc to Mr.B.Sundarapandiyan, Advocate, S.R.No.60833

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.60914

W.P.No. 21153 of 2021
and
W.M.P.No.22445 of 2021

PVS (CO)
RLP (07/01/2022)