



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.22763 of 2021
& WMP No.23990 of 2021

V.Ramathal

... Petitioner

-Vs-

- 1 The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
Coimbatore Metro, Tatabad,
Coimbatore.
 - 2 The Assistant Executive Engineer (Rural)
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
Nehru Nagar Distribution,
Elango Nagar, Coimbatore.
 - 3 The Assistant Engineer
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Coimbatore Electricity Distribution
Circle/Metro,
Nehru Nagar, Coimbatore.
 4. The Tahsildar,
Taluk Office,
North Taluk, Coimbatore.
 5. B.Bagyalakshmi,
W/o. M.Balasubramaniam
- ... 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 of the 3rd respondent pertaining to his proceedings in Lr.No.AE/Nehru Nagar/Ko.Kattu/A No.010 dated 04.02.2020 and quash the same and consequently direct the respondents 1 to 3 herein to forthwith grant and effect permanent electricity service connection in favour of the petitioner for her property measuring an extent of 1.87 $\frac{3}{4}$ acres in Survey No.331/1C2 and Survey No.331/1C1B in Patta No.2745 and



Patta No.2739 respectively, situated in Kalapatti West Village, Coimbatore North Taluk, Coimbatore District.

For Petitioner : Mr.G.Arul Murugan

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

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ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. The subject matter of challenge in the present writ petition pertains to the impugned letter issued by the third respondent dated 04.02.2020 wherein the third respondent has directed the petitioner to get ownership certificate from the concerned Tahsildar within seven days in order to consider the application submitted by the petitioner seeking for service connection.

3. Heard Mr.G.Arul Murugan, learned counsel for the petitioner and Mr.Abul Kalam, learned Standing Counsel for the respondents 1 to 3.

4. It is seen from records that the right of the petitioner over the subject property has been confirmed upto the Hon'ble Supreme Court. Thereafter, the petitioner took steps to get the possession of the property by filing an execution petition in E.P.No.634 of 2018 in O.S.No.424 of 1988 before the II Additional Sub Court, Coimbatore. The Execution Court ordered for delivery of possession by appointing an advocate commissioner and delivery of possession was also effected. This order dated 28.08.2019 passed by the Execution Court became a subject matter of challenge before this Court in C.R.P.(NPD) No.1573 of 2021. The said CRP was filed by none other than the fifth respondent in the present writ petition. This Court dismissed the CRP by an order dated 08.09.2021. The relevant portions of the order are extracted hereunder.

" 2. The grievance of the learned counsel for the petitioner is that the respondents are trying to take possession of his property to an extent 62 3/4 cents. This was disputed by the learned counsel for the respondents and he submitted that only 1.87 3/4 acres, as per the decree was in his possession. The perusal of the order passed in E.P.No.634 of 2018 in O.S.No.424 of 1988 on the file of II Additional Subordinate Court, Coimbatore shows that this matter went up to the Hon-ble Supreme Court and the petitioner failed before the



Hon-ble Supreme Court.

3. It appears that an application was filed for appointment of an Advocate Commissioner for delivering possession. Accordingly, the Commissioner inspected the property and delivered the possession. After delivery of possession, this petition has been preferred.

4. In view of the fact that the petitioner went up to the Hon-ble Supreme Court and failed and also the fact that Commissioner has delivered the property in terms of the decree, this Court cannot interfere with the orders passed in E.P.No.634 of 2018 in O.S.No.424 of 1988 on the file of II Additional Subordinate Judge, Coimbatore. Therefore, the order passed by the learned II Additional Subordinate Judge, Coimbatore stands confirmed and this Civil Revision Petition stands Dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

5. It is clear from the above order that this Court had summarily dismissed the civil revision petition mainly on the ground that the right of the petitioner has been upheld upto the Apex Court and the fifth respondent was trying to postpone the effect of the decree that was passed in favour of the petitioner.

6. Subsequent to the above order, the petitioner was pursuing further with TANGEDCO, where he had sought for service connection. On receipt of the application, the third respondent has issued the impugned letter dated 04.02.2020 stating that there is an objection raised by the fifth respondent and further the third respondent has directed the petitioner to get the ownership certificate from the Tahsildar. The impugned letter, on the face it, is illegal. The objection given by the fifth respondent will be of no avail since the fifth respondent has lost her right over the property and the right and possession of the petitioner has been upheld by the Apex Court and subsequently by this Court. There is no requirement for the petitioner to get the ownership certificate from the Tahsildar since the right of the petitioner has been recognized by a competent civil Court. That apart, patta was also granted in favour of the petitioner. Therefore, the Tahsildar cannot give an ownership certificate beyond the right that was recognized by a competent Civil Court.

7. In view of the above discussion, this Court has absolutely no hesitation to interfere with the impugned letter



dated 02.04.2020 issued by the third respondent and accordingly the same is hereby quashed. There shall be a direction to the third respondent to process the application submitted by the petitioner seeking for electricity service connection and the same shall be effected within a period of two weeks from the date of receipt of a copy of this order. This is subject to the condition that the petitioner will pay all the necessary charges and fulfill the requirements for the purpose of getting the service connection.

8. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

KST

To

- 1 The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO)
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- 2 The Assistant Executive Engineer (Rural)
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Coimbatore Electricity Distribution
Circle/Metro,
Nehru Nagar, Coimbatore.
4. The Tahsildar,
Taluk Office,
North Taluk, Coimbatore.

+1cc to M/s.G.Arul Murugan, Advocate SR.No.55172
+1cc to Mr.M.Abdulkalam, Advocate SR.No.55278

W.P.No.22763 of 2021
& WMP No.23990 of 2021

PMK (CO)
SB(12/11/2021)