

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24217 of 2021

A.Rangasamy

... Petitioner

Vs.

1.The Chairman

Tamil Nadu Generation and Distribution Corporation Ltd.,
Anna Salai, Chennai 600 002.

2.Superintendent Engineer,

Tamil Nadu Generation and Distribution Corporation Ltd.,
132D, Cutchery Street,
Gobi 638 452,
Erode District.

3.Assistant Engineer,

(Supply and Distribution)
Tamil Nadu Generation and Distribution Corporation Ltd.,
Gobi Distribution Circle,
Siruvalur 638 054.

4.Village Administrative Officer,

67-Santhipalayam,
Gobi Circle,
Gobi 638 452.

5.V.K.Palanisamy

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to Call for the records relating to impugned proceedings in Ka.No.Ou.Mi.Po / E and pe /Siruvalur /Ko.Objection / Ka.No.132 / 2021, dated 2.9.2021, on the file of the 3rd respondent, quash the same and consequently direct the 3rd respondent to provide electricity connection to the temple situated in S.No.224/8C of Santhipalayam village, Gobi Taluk, Erode District, within a stipulated period of time as fixed by this Court.

For Petitioner : Mr.R.Ezhilarasan

For Respondent :Mr.M.Abdulkalam, Standing Counsel
for R1 to R3
Mr.P.Gurunathan
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to impugned proceedings in Ka.No.Ou.Mi.Po / E and pe /Siruvalur /Ko.Objection / Ka.No.132 / 2021, dated 2.9.2021, on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to provide electricity connection to the temple.

2. The case of the petitioner is that the petitioner owns a property in S.No.224/8C of Santhipalayam Village, Gobi Taluk, Erode District by way of family partition on 09.05.2007, wherein the petitioner's family temple is situated and the patta also stands in his name. While being so, the petitioner in the year 2015, made application to the respondents to provide electricity connection to the temple. However, the application was rejected by the 3rd respondent and thereafter, the same was challenged before this Court in W.P.No.35696 of 2015. The Writ Petition was disposed on 05.11.2015 with an observation that the rejection has to be treated as a notice, for which, the petitioner was directed to submit a detailed representation along with relevant documents. Accordingly, the petitioner has submitted representation along with documents and the same was also not considered by the 3rd respondent. Hence, the petitioner had approached the Tamil Nadu Electricity Redressal Commission, Gobichettipalayam, who also directed the 3rd respondent to pass appropriate orders after enquiry.

3. It is the further claim of the petitioner that the 5th respondent who is no way connected with the said property, had raised objections and also filed a Suit in O.S.No.234 of 2015, on the file of the District Munsif Court, Gobichettipalayam, for permanent injunction against the petitioner and revenue officials for not to provide title certificate in favour of the petitioner in respect of the above said survey number and it is still pending. By citing pendency of the said Suit, the 3rd respondent has delayed to consider the request of the petitioner to provide electricity service connection. The petitioner in order to get electricity connection, has once again applied to the 3rd respondent, however the same was also rejected by the 3rd respondent stating that the permanent injunction was granted and the Suit is Pending. Aggrieved by the same, the present petition is filed by the petitioner.

4. The learned counsel appearing for the petitioner submitted that the petitioner's father and the 5th respondent father are brothers. Initially, the Suit was decreed in favour of the 5th respondent on the ground that the petitioner has not filed the Written Statement. Immediately thereafter, the

petitioner has filed an Interlocutory Application to set aside the exparte order and pursuant to which, the exparte order was set aside on condition that the petitioner has to pay a sum of Rs.500/- as cost on or before 18.06.2018. In compliance of the said order, the petitioner has paid the said sum. In spite of that, the 3rd respondent without taking any of these aspects on mind and without knowing the order setting aside the exparte order, has erroneously rejected the claim of the petitioner for electricity service connection. Hence, this Court may set aside the impugned order dated 02.09.2021 and remand the matter back to the authorities for effective service connection.

5. The learned Standing Counsel appearing for the respondents 1 to 3 submitted that due to the pendency of the Civil Suit between the parties, the request of the petitioner has not been considered. However, if the matter is remanded back, the application of the petitioner will be considered in the manner known to law, after due enquiry.

3. This Court has carefully considered the rival submissions and also perused the materials placed before it.

4. Initially, the Suit was decreed in favour of the 5th respondent on the ground that the petitioner did not file the Written Statement. Immediately thereafter, the petitioner has filed an Interlocutory Application to set aside the exparte order and pursuant to which, the exparte order was set aside on condition that the petitioner has to pay a sum of Rs.500/- as cost on or before 18.06.2018. In compliance of the said order, the petitioner has also paid the said sum. The 3rd respondent without taking note of the said order, has rejected the request of the petitioner on the ground that permanent injunction was granted and the suit is pending. Therefore, the impugned order dated 02.09.2021 passed by the 3rd respondent warrants interference, as the same was passed without taking note of the set aside order of the Trial Court.

5. In the result, the Writ Petition is allowed and the impugned proceedings in Ka.No.Ou.Mi.Po / E and pe /Siruvalur / Ko.Objectio / Ka.No.132 / 2021, dated 02.09.2021, on the file of the 3rd respondent, is quashed and the matter is remanded to the 3rd respondent for fresh consideration, who after conducting due enquiry shall pass orders on merits and in accordance with law. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

- 1.The Chairman
Tamil Nadu Generation and Distribution Corporation Ltd.,
Anna Salai, Chennai 600 002.
- 2.Superintendent Engineer,
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- 4.Village Administrative Officer,
67-Santhipalayam,
Gobi Circle,
Gobi 638 452.

+1cc to Mr.R.Ezhilarasan, Advocate SR.No.69426

+1cc to Government Pleader SR.No.69567

W.P.No.24217 of 2021

IM(CO)
GMY(25/01/2022)