

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.25680 OF 2019

A.Ravi

... Petitioner

Vs.

1. The Chairman
Tamil Nadu Electricity Board,
Chennai 600 002.
2. The Additional Divisional Engineer,
Tamil Nadu Electricity Board,
Saidapet West Division,
Jafferkhanpet, Ashok Nagar,
Chennai 600 083.
3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Saidapet West Division,
Jafferkhanpet, Ashok Nagar,
Chennai 600 083.
4. T.Palani

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 2 and 3 to disconnect the EB supply connection provided in the name of the 4th respondent to the property bearing No. 52, Jayaram Chetty Street, West Saidapet, Chennai - 600015.

For Petitioner	:	Mr.L.Dhamodharan
For RR1 to 3	:	Mr.L.Jaivenkatesh Standing Counsel (TNEB)
For RR4	:	Mr.V.Venkatesh

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 2 and 3 to disconnect the EB supply connection provided in the name of the 4th respondent to the property bearing No. 52, Jayaram Chetty Street, West Saidapet, Chennai - 600015.

2. The case of the petitioner is that the petitioner is the co-owner of the property bearing No.52, Jayaram Chetty Street, Saidapet, Chennai 600 015. Originally one Mr.Rathinasamy Nadar was inducted as tenant. Subsequently after his demise, his wife succeeded to the tenancy, who inducted one Mr.Palani / 4th respondent as sub tenant of the property without the consent of the owners of the property, due to which the owners of the property have filed a Suit bearing O.S.No.5233 of 2013, on the file of the II Assistant Judge, City Civil Court, Chennai, for the relief of permanent injunction restraining the fourth respondent from carrying on any construction activity in the said property. It is further averred by the petitioner that the fourth respondent indulged in the act of manipulating the document to obtain electricity connection for the petitioner property and the petitioner on coming to know about the same, have caused a lawyer's notice dated 20.09.2018 and informed the respondents 1 to 3 that the 4th respondent is an illegal occupant and do not have any manner of right and thereby a representation was submitted not to provide service connection to the property. Even after receipt of the notice, the respondent had provided electricity connection by violating the Electricity Board Rules. Even thereafter, the petitioner submitted a detailed representation dated 28.03.2019 to disconnect the electricity connection provided to the property. Though the said representation was acknowledged, the respondents 1 to 3 have not taken action. Aggrieved by the same, the petitioner is before this Court by way of this Writ Petition.

3. The learned counsel appearing for the petitioner submitted that inspite of the representation for not to provide electricity service connection to the petitioner, the respondents 1 to 3 for the reasons best known to them, processed the application and provided connection. Though once again the representation was submitted for disconnection of service connection, the respondents 1 to 3 wilfully have not taken any action on the said representation. It is further submitted by the learned counsel appearing for the petitioner that the 4th respondent without possessing any documents with regard to the right over the property obtained service connection in his name for the petitioner property and therefore, the 4th respondent is an illegal occupant and do not have any manner of right and

prays for appropriate order of this Court for disconnection of electricity service connection.

4. The learned Standing Counsel appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent submitted that the issue as to whether the 4th respondent is an illegal occupant or not, is a disputed question of fact pending before the competent Civil Court in O.S.No.5233 of 2013. While being so, without approaching the Civil Court for interim relief by filing appropriate application, where the subject matter is pending, straight away approaching this Court by way of the Writ Petition is not sustainable and hence prays for dismissal of this petition.

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

6. This Court after considering the relevant documents is of the view that when the subject matter is pending before the competent Civil Court in O.S.No.5233 of 2013, expressing any opinion in the present Writ Petition would adversely affect the rights of the parties before the Lower Court. Therefore, this Court is not inclined to express any opinion on merits of the case. However, liberty is granted to the petitioner to make fresh application or interim application in the Suit in O.S.No.5233 of 2013, pending before the II Assistant Judge, City Civil Court, Chennai, for appropriate relief.

7. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman
Tamil Nadu Electricity Board,
Chennai 600 002.
2. The Additional Divisional Engineer,
Tamil Nadu Electricity Board,
Saidapet West Division,
Jaffer Khanpet, Ashok Nagar,
Chennai 600 083.

3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Saidapet West Division,
Jaffer Khanpet, Ashok Nagar,
Chennai 600 083.

Copy To

The II Assistant Judge,
City Civil Court,
Chennai.

+1cc to M/s.L.Dhamodharan, Advocate, S.R.No.65964

+1cc to M/s.L.Jaivenkatesh, Advocate, S.R.No.65639

+1cc to M/s.V.Venkatesh, Advocate, S.R.No.65374

W.P.No.25680 of 2019

KSM(CO)
RLP(09/02/2022)