

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	11.02.2021
Pronounced On	18.02.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.33075 of 2016

(Through Video Conferencing)

S.Asokan Petitioner

Vs.

1.Tamil Nadu Generation and
Distribution Corporation, [TANGEDCO],
rep. by its Chairman,
N.P.K.R.R. Maaligai, Electricity Avenue,
Anna Salai, Chennai - 600 002.

2.The Assistant Engineer,
Tamil Nadu Generation and
Distribution Corporation, [TANGEDCO],
Royapettah Electricity Distribution Circle,
Royapettah High Road,
Chennai - 600 014.

3.Mrs.Usha Rani

4.P.Manickam ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to provide separate Fresh Electricity Service connection to the petitioner's portion viz., a portion in the First Floor of the premises bearing Old Door No.40, New Door No.85, Dr. Natesan Salai, Thiruvallikeni, Chennai - 600 005.

For Petitioner : Mr.S.Sekar
For First and Second Respondents : Mr.P.R.Dhilip Kumar
For Third and Fourth Respondents : No appearance

O R D E R

Though this case was listed on several occasions through video conferencing, there was no representation on behalf of the contesting third and fourth respondents. Hence this case was listed for physical hearing and was taken up for final disposal through physical hearing. The case was heard again on 05.02.2021 and 11.02.2021 during physical hearing in presence of the learned counsel for the petitioner. The learned counsel for the first and second respondents appeared through video conferencing and made submissions.

2. I have also perused the affidavit filed by the petitioner in support of the present writ petition and the counter affidavit filed by the respondents herein.

3. The present writ petition has been filed for a Writ of Mandamus to direct the second respondent to provide a separate fresh electricity connection to the petitioner for his portion of the property. The petitioner is in possession of a property, in respect of which, there is an in-terse dispute between the petitioner and the third respondent. The third respondent is the sister of the petitioner. The third respondent had earlier filed a suit for a declaration that the petitioner was in illegal possession of the property. However, the said suit was dismissed by the learned VI Asst. Judge, City Civil Court, Chennai in O.S.No.3072 of 2007 on 07.12.2009.

4. During the course of hearing, it was discerned that the property in question was an ancestral property which originally belonged to the petitioner's and the third respondent's paternal grandparents which was partitioned between their father and their uncle the fourth respondent herein. The fourth respondent is stated to have two separate EB connections for two shops in the ground floor. Two other connections are in the name of the third respondent though the third respondent is in possession of only one portion of the first floor while the petitioner is in possession of the other portion in the first floor. The third respondent had obtained the connection to the exclusion of the petitioner based on a settlement deed executed by the petitioner's and third respondent's mother on 24.11.2006 in her

favour even though she had only one third right over the property as her husband died intestate leaving the petitioner, third respondent and their deceased mother as the legal heirs.

5. The second respondent has refused to give EB connections in the name of the petitioner as the third respondent had produced a settlement deed dated 24.11.2006 showing that the property was settled in her favour by their late mother. On the other hand, the petitioner states that the settlement deed has now been declared as null and void in the suit that came to be dismissed by the learned VI Asst. Judge, City Civil Court, Chennai in O.S.No.3072 of 2007 on 07.12.2009.

6. I have considered the arguments advanced on behalf of the petitioner and the first and the second respondent.

7. During the course of hearing, it transpired that there are two residential units in the first floor of which one property is under the occupation of the petitioner while the other portion in the name of the third respondent and a common EB connections. Since these connections are in the name of the third respondent, the first and the second respondents are unwilling to give a fresh connection to the petitioner. There are also two separate EB connections in the name of the third respondent. The third respondent appears to be denying EB connection to the petitioner perhaps with a view to drive him out of the said property. The fourth respondent is tacitly supporting the third respondent as the settlement deed dated 24.11.2006 preceded another partition deed dated 13.01.2006 between the fourth respondent, the petitioner's and the third respondent's deceased mother and the legal heirs of the other pre-deceased daughter of their paternal grandfather and grandmother.

8. Since this Court under Article 226 of the Constitution of India cannot straight away come to conclusion as to the ownership of the property in this writ petition, I direct the office of the second respondent to visit the property and find out whether the petitioner is indeed in possession of the property to the exclusion of the third respondent. If the petitioner is in possession of the said property whether physically or symbolic, it shall disconnect one of the two connections standing in the name of the third respondent and give a fresh connection to the petitioner.

9. The second respondent shall either by himself or depute a senior officer of the Department and make an enquiry and thereafter take further steps. If the petitioner is in possession of one portion of the first floor of the property as has been stated, above one of the subsisting connection standing in the name of the third respondent shall be cancelled/disconnected and a fresh connection should be given to the petitioner. This exercise shall be carried out by the second respondent within a period of four weeks from the date of receipt of a copy of this order.

10. This Writ Petition stands disposed of with the above observations. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Tamil Nadu Generation and
Distribution Corporation, [TANGEDCO],
rep. by its Chairman,
N.P.K.R.R. Maaligai, Electricity Avenue,
Anna Salai, Chennai - 600 002.

2. The Assistant Engineer,
Tamil Nadu Generation and
Distribution Corporation, [TANGEDCO],
Royapettah Electricity Distribution Circle,
Royapettah High Road, Chennai - 600 014.

+1 cc to Mr.S.Sekar Advocate sr9573

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