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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.27755 OF 2017

AND

W.M.P.NO.29741 OF 2017

1. S.K.Abdul Rahman
2. K.M.Shameem Rahman

...Petitioners

Vs.

1. The Chairman Cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd,
10th Floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai - 600 002.
2. The Director,
Tamil Nadu Generation and Distribution Corporation Ltd,
10th Floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai - 600 002.
3. The Assistant Engineer,
TANGEDCO, ECR Road,
Neelangarai, Chennai - 41
4. The Executive Engineer,
No.110 KV, Tidel Park,
S.S.Complex, Tharamani Road,
Chennai - 113.
5. The Sub Registrar,
No.1/71, 1st Floor Kazura Garden,
2nd Street, ECR, Neelangarai,
Chennai - 41.
6. The Thasildar,
No.1, Rajiv Gandhi Salai,
1st Cross Street, Sholinganallur,
Chennai - 119.



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7. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

8. Mrs.A.R.Juhurnisha

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the third and fourth respondents to disconnect the unauthorized electricity service connection, viz., S.C.Nos.:09-218-001-456 and 09-294-008-200 illegally, obtained in respect of the petitioner's property by the eighth respondent, who has no right over the same.

For Petitioner	:	Mr.S.Haja Mohideen Gisthi
For Respondents 1 to 4	:	Mr.L.Jai Venkatesh Standing Counsel
For Respondent 5	:	Mr.Yogesh Kannadashan Special Govt. Pleader
For Respondent 6	:	Mr.M.Shahjahan
Respondent-7 & 8	:	No appearance

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the third and fourth respondents to disconnect the unauthorized electricity service connection, viz., S.C.Nos.:09-218-001-456 and 09-294-008-200 illegally obtained in respect of the petitioner's property by the eighth respondent, who has no right over the same.

2. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition in short is as follows:-

i) The petitioner and his wife purchased an agricultural property, bearing R.S.No.92/2A, New No.92/238A along with a house in Neelangarai Village, vide registered sale deeds, dated 02.07.1999 and right from the said purchase, they are the absolute owners of the property. The petitioners also obtained electricity service connection in respect of the said property



vide connection No.218-01-456, in the year 2000. Thereafter, in the year 2013, the petitioners temporarily shifted their residence to Nungambakkam. However, the petitioners were informed by their neighbour that some encroachers have trespassed into their property. The petitioners, on verification of documents, to their shock and surprise, came to know that, in the year 2013, electricity service connection was changed in the name of the eighth respondent.

3. The learned counsel appearing for the petitioner submits that the eighth respondent by colluding hands with the respondents 3 and 4 obtained electricity service connection in his name, in respect of the petitioners' property, in an unauthorized manner, and therefore, seeks for appropriate direction.

4. The learned Standing Counsel for respondent-Electricity Board submits that since the eighth respondent claimed that he is the absolute owner of the property, and he also stated to have filed a suit in O.S.No.226 of 2005, against the petitioners with regard to the right/title/interest over the property in question, and the said suit is pending before the trial Court, the respondent-Electricity Board has granted electricity service connection in favour of the eighth respondent.

5. However, in reply, the learned counsel for the petitioner submits that the so-called suit filed against the petitioners was subsequently withdrawn by the eighth respondent, and at the time of withdrawal, the petitioners are very much in possession and enjoyment of the property, and therefore, he submits there is no impediment for the respondent-Electricity Board to change the electricity service connection into the name of the petitioner and disconnect the service connection granted in favour of the eighth respondent.

6. In response to the above submission, the learned Standing Counsel for the respondent-Electricity Board submits that, if that be the case, then, the petitioner may be directed to make necessary application along with the copy of the judgement passed by the Trial Court, recording the withdrawal of the suit, and respondent-Electricity Board on receipt of the said application, would pass necessary orders on merits and in accordance with law, within the time, as stipulated by this Court.

7. Heard the learned counsel appearing for the petitioners and the learned Counsel for the respondents 1 to 6 and perused the materials available on record.



8. At this stage, it would be useful to refer to the operative portion of the judgment passed by the Trial Court, in O.S.No.226 of 2005, dated 15.04.2021, which is extracted herein below:-

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"18. The plaintiffs has not pleaded anywhere, in his memo that they wanted to file fresh suit for the same reliefs on the same cause of action.

In view of the above discussions and the reasons given therein, the considered view of this Court is that the plaintiffs had abused the process of court and wasted the court hours for the past 16 years. Apart from that, the plaintiffs are not entitled to file any fresh suit for the same reliefs on the same cause of action and also they are liable to pay cost to the defendants under Section 35 (a) of CPC and they are not entitled for the return of the court fees.

19. In the result, this Court is inclined to grant permission to withdraw the suit on the following conditions:-

1. that the plaintiffs are not entitled to file any fresh suit for the same reliefs on the same cause of action;
2. that they have to pay cost of Rs.3000/- under Section 35 (a) CPC to the defendants.
3. That they are not entitled for the return of the court fees
4. that the plaintiffs are permitted to withdraw the suit.

9. In the light of the submission made by the learned counsel for both sides and considering the fact that the suit filed by the eighth respondent/first plaintiff and five others was subsequently withdrawn by them and the Trial Court, vide a judgment, dated 15.04.2021, recorded the said withdrawal, this Court directs the petitioner to make necessary application seeking for change of electricity service connection into the name of the petitioners and to disconnect the service connection granted in favour of the eighth respondent, along with the copy



of the judgment passed by the trial Court within a period of four weeks from the date of receipt of a copy of this order. As and when, such an application is made, the respondents 3 and 4 are directed to consider the same and pass appropriate orders, by providing electricity service connection to the petitioner's property, in accordance with law, within two weeks thereafter.

10. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

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+2ccs to Mr.S.Haja Mohideen Gisthi, Advocate, S.R.No.64135

W.P.No.27755 of 2017

GPL (CO)
RLP (07/02/2022)