

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.27421 of 2018

D Sampath

... Petitioner

Versus

1. The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Panapakkam,
Vellore District 631 052.

2. The Junior Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Panapakkam,
Vellore District.

3.K.Vinayagam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to transfer the above electricity service connection No.280.001.107 attached to the Well in agricultural land comprised in Survey No.385/5 measuring 70 cents at Peruvalaiyam Village, Nemili Taluk, Vellore District from the name of the petitioner's father late K.T.Devarajulu Naidu to the petitioner.

For Petitioner : Mr.N.Nagu Sah

For R1 & R2 : Mr.L.Jai Venkatesh

For R3 : No Appearance

ORDER

This Writ Petition has been filed, for the issuance of Writ of Mandamus, directing the respondents 1 and 2 to transfer the above electricity service connection No.280.001.107 attached to the Well in agricultural land comprised in Survey No.385/5

measuring 70 cents at Peruvalaiyam Village, Nemili Taluk, Vellore District from the name of the petitioner's father late K.T.Devarajulu Naidu to the petitioner.

2.The learned counsel for the petitioner would submit that, originally, the agricultural land along with Well and pump set situated in Survey No.385/5 measuring 70 cents at Peruvalaiyam Village, Nemili Taluk, Vellore District belongs to his father. Thereafter, by virtue of the family settlement deed, the said land was allotted to the petitioner and he is in the possession and enjoyment of the property till date and the patta was also issued in the name of the petitioner. The electricity service connection attached to the Well stands in the name of the petitioner's father. Therefore, the petitioner made a representation to the second respondent, requesting to transfer the electricity service connection to the name of the petitioner. While that being the case, a frivolous litigation was filed against the petitioner by the third respondent, who is the adjacent land owner. By citing the said issue, the second respondent rejected the petitioner's representation. As far as the petitioner is enjoying the property and the patta stands in his name, he is entitled to get the electricity service connection in his name and the first respondent cannot pass an order refusing to transfer the electricity connection in favour of the petitioner by citing the frivolous litigation.

3.Per contra, the learned Standing Counsel appearing for the respondents 1 and 2 would submit that there was a dispute between the petitioner and the third respondent and the suit is also pending in this regard, that is the reason why the petitioner's representation was rejected by the first respondent.

4.Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondents 1 and 2 and perused the materials available on record.

5.Considering the submission made by both the parties, this Court is of the view that by virtue of the family settlement deed, the agricultural land comprised in Survey No.385/5 measuring 70 cents at Peruvalaiyam Village, Nemili Taluk, Vellore District, was allotted to the petitioner and the patta also stands in the name of the petitioner. The electricity service connection attached to the Well, which stands in the name of the petitioner's father late K.T.Devarajulu Naidu, can only be transferred in the name of the petitioner. Even if there is any dispute in the land, it cannot be transferred to the third respondent. That apart, the petitioner is in possession of the property and patta was also issued in the name of the petitioner. Therefore, this Court does not find any impediment for the respondents 1 and 2 to transfer the electricity

connection in the name of the petitioner, which is standing in the name of the petitioner's father.

6. In view of the above, this Court directs the petitioner to provide indemnity bond and comply with other required formalities as per the rules and regulations of the respondents 1 and 2, within a period of two weeks from the date of receipt of a copy of this order. On production of the required documents from the petitioner, the respondents 1 and 2 shall transfer the electricity service connection in the name of the petitioner within a period of two weeks thereafter.

7. This Writ Petition is disposed of with the above directions. No costs.

For Clarification

The matter having been listed on 08.12.2021, for clarification in pursuance of order dated 03.12.2021 and made herein and in the presence of Mr. N. Nagu Sah Advocate for the petitioner and of Mr. L. Jaivenkatesh Advocate for the first and second Respondent, the Court made the following order.

Today, the matter is listed under the caption "for clarification", at the instance of the learned counsel appearing for the third respondent.

2. The learned counsel appearing for the third respondent submitted that on 03.12.2021, the order was passed in his absence and now, he made a brief submission that there are some Civil Suits pending against the petitioner and therefore, the Writ Petition has to be dismissed.

3. The relief sought by the petitioner is to transfer the electricity connection in his name, which stands in the name of his deceased father. The contention of the learned counsel for the petitioner is that, the petitioner is in possession and enjoyment of the property and he is paying the electricity consumption charges. If that is so, the petitioner is certainly entitled to get the electricity service connection in his name which stands in the name of his father subject to the compliance of the required formalities.

4. It is made clear that, the Court below shall pass judgment in the suit filed by the petitioner and the third

respondent without being influenced by any of the observations made by this Court in this Writ Petition.

5.Hence, no further clarification is required.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

rst

To:

1. The Assistant Executive Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Panapakkam,
Vellore District 631 052.
2. The Junior Engineer,
Operation and Maintenance,
Tamil Nadu Electricity Board,
Panapakkam,
Vellore District.

+1cc to Mr.A.Gouthaman, Advocate, S.R.No.65043
+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.64462
+1cc to Mr.N.Nagu Sah, Advocate, S.R.No.63967

W.P.No.27421 of 2018

SPD[co]
NSK 28/01/2022