



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.11682 of 2011

and

M.P. (MD)No.1 of 2011

1. V.Rajendran (Died)

2. R.Kanagaamsam

3. R.Vijayaragavan

4. R.Premalatha

5. R.Vimalraj

6. R.Prabakaran

... Petitioners

(Petitioners 2 to 6 are substituted vide order dated 01.02.2021 in W.M.P. (MD)No.1408 of 2021 in W.P. (MD) No.11682/2011)

Vs.

1. The Junior Engineer,
Grade I/City,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Melur, Madurai District.

2. V.Muthuramalingam

3. V.Aasaithambi

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the first respondent in Letter No.:U.Mi.Po/Nagar/Mee/ Va.Aa/Koo/A.En.103/11 dated 28.09.2011 and quash the same.

For Petitioner

For R-1

: Mr.H.Arumugam

: Mrs.M.Parameshwari,
for Mr.S.M.S.Johny Basha,
Standing counsel.

* * *

O R D E R

Heard the learned counsel appearing for the writ petitioners and the learned Standing Counsel appearing for the first respondent.

<https://hcservices.ecourts.gov.in/hcservices/>



2. Though the private respondents have been served and they originally entered appearance through their counsel and the names of the respondents are printed in the cause list, there is no appearance on their behalf.

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3. The case was adjourned. Since respondents 2 and 3 have not chosen to engage a new counsel, this Court is left with no other option to hear the case on merits and give a disposal.

4. The case of the petitioners is that their father and the father of respondents 2 and 3 had jointly purchased a piece of land measuring 40 cents. Dispute arose between the two, leading to filing of a partition suit in O.S.No.171 of 1994 on the file of the II Additional Sub Court, Madurai. It is stated that the partition suit is still pending. In the meanwhile, respondents 2 and 3 filed an injunction suit in O.S.No.25 of 2011 on the file of the District Munsif Court, Melur. The original petitioner was shown as the second defendant. An interim order of temporary injunction was granted in the said suit against the original petitioner on 09.02.2011. The allegation of the private respondents was that in violation of the said injunction order, the original writ petitioner obtained electricity service connection. Thereupon the first respondent issued show cause notice and after getting reply from the original petitioner passed the impugned order effecting disconnection. Thereafter, this writ petition was filed and the electricity supply was also restored.

5. Today when the matter was taken up for final hearing, the learned counsel appearing for the petitioner pointed out that the scope of the interim order passed in the suit was only to restrain the original petitioner from putting up any further construction in the suit property. Interim injunction was granted on 09.02.2011. But the construction was over a long time back. This is evident from the fact that the electricity service connection was itself obtained on 22.02.2011. Unless the construction had been completed even prior to the grant of interim injunction, it could not have been possible to secure the electricity supply on 22.02.2011.

6. Therefore, from this single circumstance, I am satisfied that the private respondents herein did not obtain any interim order against the original petitioner against obtaining electricity service connection. That apart, a person who has put up a construction, is entitled to supply of electricity. He cannot be denied the same by pointing out the existence of a civil dispute. Of course the rights of the parties will eventually abide by the outcome of the civil proceedings. It is not necessary that one party in the civil proceedings should remain deprived of supply of electricity, when there is no specific injunction orders to that effect.



7. In this view of the matter, the order impugned in this writ petition is quashed. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Junior Engineer,
Grade I/City,
Tamil Nadu Electricity Generation
and Distribution Corporation,
Melur, Madurai District.

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-5209[F] dated 15/02/2021)

Order made in
W.P.(MD)No.11682 of 2011 and
M.P.(MD)No.1 of 2011
12.02.2021

KUN(CO)
SRS (08/03/2021) 3P : 3C