



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.3966 of 2020

and

W.M.P.(MD).No.3375 of 2020

Samdad Begum @ Samsudeen

... Petitioner

Vs.

1. The Assistant Engineer,
Operation and Maintenance,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Trichy Rural, Trichy.

2. Selvaraj

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records culminated in the first respondent's impugned letter in ref. க.எண்.உ.மி.பொ/இ.கா./கிரா/திரு/கோ.ம.தொ.அ/அ.எண்.56/2019, dated 22.08.2019 and quash the same and consequently direct the first respondent to provide new electricity service connection to the petitioner's house.

For Petitioner

: Mr.J.Jeyakumaran

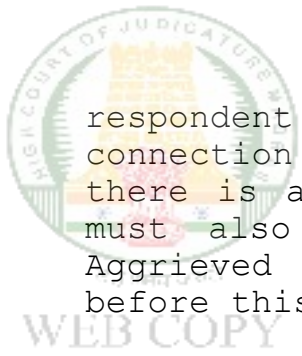
For R-1

: Mr.S.M.S.Johny Basha
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned communication issued by the first respondent, dated 22.08.2019, wherein, the electricity service connection sought for by the petitioner was refused on the ground that objections were given by the second respondent.

2. The case of the petitioner is that her father purchased an extent of 36 ¼ cents with a right of a pathway under a registered sale deed, dated 02.08.1977. The further case of the petitioner is that she had put up a construction of a house and sought for domestic electricity connection by submitting an application before the first respondent. The first respondent, through the impugned letter, dated 22.08.2019, informed the petitioner that the second



respondent had raised objections stating that the proposed service connection will pass through their private property. That apart, there is a common pathway and hence, a "No Objection Certificate" must also be obtained from the Village Administrative Office. Aggrieved by the same, the present Writ Petition has been filed before this Court seeking for appropriate directions.

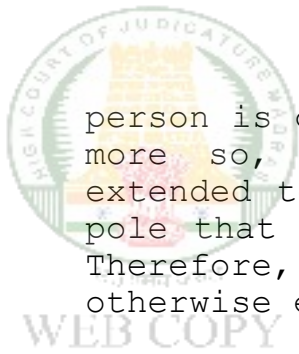
3. Heard Mr.J.Jeyakumaran, learned counsel appearing for the petitioner and Mr.S.M.S.Johny Basha, learned Standing Counsel appearing for the first respondent. Though the Second respondent has been served with notice and the name has also been printed in the cause-list, there is no representation either in person or through counsel.

4. This Court has carefully considered the submissions made on either side and the materials available on record.

5. It can be seen from records that there is a dispute between the petitioner and the second respondent and the second respondent along with two others have filed a suit in O.S.No.1223 of 2019, before the District Munsif Court, Srirangam, against the petitioner and three others seeking for a right over the pathway and for a consequential injunction. This suit is pending.

6. The learned counsel appearing for the first respondent submitted that there is an electric pole that has been laid in the disputed pathway and the electric line is drawn from this pole. According to the learned counsel appearing for the petitioner, the first respondent has already drawn line from this pole to give service connection to two or three persons living within the same locality. However, when the service connection was sought to be given to the petitioner, there was an objection by the second respondent, since there is already a pending dispute between the petitioner and the second respondent.

7. This Court is not dealing with the *inter-se* dispute between the petitioner and the second respondent and it has to be independently agitated only before the competent Civil Court where the suit is pending. In the present case, this Court is concerned about the issue as to whether the electric line can be drawn from the existing pole which has been laid in the disputed pathway. According to the petitioner, it is a common pathway and according to the second respondent, it is a private pathway. Whatever may be the right claimed insofar as the pathway is concerned, the fact remains that the electric pole belongs to the Department and it is always open to the Department to provide electricity service connection by drawing line from this pole. Just because, the second respondent raised some objections and threatened to self immolate, that cannot prevent the first respondent to act in accordance with the regulations. In other words, threat exerted by someone cannot be a ground for the second respondent not to provide the service connection if a



person is otherwise entitled for such a service connection. This is more so, since there are already connections which have been extended to some of the persons in the same locality from the same pole that has been laid by the Department in the disputed pathway. Therefore, the petitioner cannot be treated differently, if he is otherwise entitled for the service connection.

8. In view of the above discussion, the impugned letter of the first respondent, dated 22.08.2019, is hereby quashed and there shall be a direction to the first respondent to process the application given by the petitioner and provide domestic electricity service connection, if the petitioner satisfies all the other requirements and has paid the necessary charges. This process shall be completed by the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order. If the first respondent encounters any problem from the second respondent, it is left open to the first respondent to seek for police protection in order to complete the process of giving electricity service connection to the petitioner and such police protection shall be granted.

9. This Writ Petition is accordingly allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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.

W.P. (MD) .No.3966 of 2020
30.06.2021

RC (15.07.2021) 3P-1C