



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **15.04.2021**
CORAM

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD)No.7758 of 2021

M.Kannan

.. Petitioner

Vs.

1.The Assistant Engineer,
O/o.Assistant Engineer (Rural)
TANGEDCO, Samayanallur,
TNEB Complex,
Dindigul Main Road,
Samayanallur,
Madurai - 625 402.

2.M.Thirupathi

3.P.Papathi @ Selvi

4.P.Rathinam

5.M.Vijaya

.. Respondents

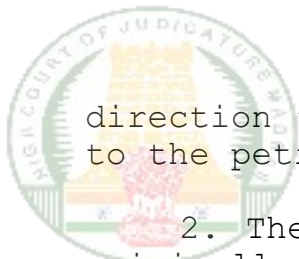
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in f.vz;: c.ngh.ECÆrkaÆNfh.LtÆm vz;:292Æ20, dated 09.12.2020, on the file of 1st respondent and quash the same and consequently, direct the 1st respondent to provide electricity connection to the petitioner's house situated at No.204, Papathiamman Kovil Street, Samayanallur Post, Madurai District.

For Petitioner : Mr.S.Ayyanar Prem Kumar

For Respondents : Ms.M.Rajeswari,
for SMS Johy Basha for R1

ORDER

This Writ Petition has been filed challenging the proceedings of the first respondent dated 09.12.2020 and for a consequential
<https://hcservices.ecourts.gov.in/hcservices/>



direction to the first respondent to provide electricity connection to the petitioner with respect to the subject property.

2. The case of the petitioner is that the subject property was originally owned by his father and the patta also stood in his name. According to the petitioner, his father died on 24.02.1990, leaving behind the petitioner and the second respondent as the legal heirs. The further case of the petitioner is that respondents 3 to 5 are the sisters and the second respondent had also constructed a house in one portion of the property.

3. The petitioner claims that he had also put up a construction in the other portion of the property and had applied for electricity connection before the first respondent. The same was rejected by the first respondent through the impugned proceedings on the ground that the second respondent objected to the same and he also produced a patta in his name for the entire property. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Heard Mr.S.Ayyanar Prem Kumar, learned counsel for the petitioner and Ms.M.Rajeswari, learned counsel for Mr.SMS Jony Basha, learned counsel appearing on behalf of the first respondent.

5. The main ground that has been raised by the learned counsel for the petitioner is that clause 27(4) of the Tamil Nadu Electricity Distribution Code, authorizes the electricity Board to provide electricity connection even in a case where an objection has been raised and the learned counsel further submitted that this Court has interpreted the same to mean that even an encroacher can seek for an electricity connection, if he is in possession of the property.

6. There is absolutely no quarrel with regard to the contention raised by the learned counsel for the petitioner. In the present case, the entire dispute revolves around the possession of the property. The second respondent, who is the brother of the petitioner has produced a patta which stands in his name for the entire property and therefore, the first respondent was not in a position to overlook the objections given by the second respondent. The petitioner is placing reliance upon a house tax receipt given in the name of the petitioner. This document by itself will not prove his possession over the property, since such a house tax receipt is always given in the name of the person, who pays the tax. The petitioner has to necessarily take steps to revoke the patta standing in the name of the second respondent or the petitioner will have to approach the competent civil Court and workout his rights over the subject property. In any event, the first respondent cannot decide upon the possession over the property. The first respondent was perfectly right in placing reliance upon the patta that was produced by the second respondent, since it is a *prima facie* case in favour of the second respondent to prove possession over the property.



7. In view of the above discussion, this Court does not find any ground to interfere with the impugned proceedings of the first respondent. It is left open to the petitioner to work out his remedy in accordance with law and establish his right and possession over the subject property and thereafter, the petitioner can approach the first respondent seeking for electricity connection.

8. This Writ Petition is disposed of accordingly. No costs.

15.04.2021

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

VSM

To

The Assistant Engineer,
O/o.Assistant Engineer (Rural)
TANGEDCO, Samayanallur,
TNEB Complex,
Dindigul Main Road,
Samayanallur,
Madurai - 625 402.

+1 CC to M/s.S.AYYANAR PREM KUMAR, Advocate (SR-15875[F] dated 15/04/2021)

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