



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8061 of 2021

and W.M.P. (MD) .No.6160 of 2021

J.Khaniskar

... Petitioner

Vs.

1.The Assistant Engineer, (Distribution)
Tamil Nadu Generation and
Distribution Corporation, (TANGEDCO),
Chinnamanur,
Theni District.

2.Mr.M.Jegadeesan

3.Mr.M.Periyakaruppan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 1st respondent in Ka.No.UmiPo/Na/Chin/VaAa/Ko.Ka/A.No.017/2020-21, dated 19.02.2021 and quash the same and consequently, direct the 1st respondent to disconnect the service connection bearing No.541015240 for a period of of three months for renovating the well situated in Survey No.1469/2A measuring 5 cents situated in U.Ammapatti Village, Uthamapalayam Taluk, Theni District.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mrs.M.Rajeswari for

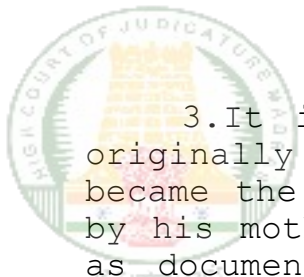
Mr.S.M.S.Johnny Basha for R1
Standing Counsel

Mr.M.S.Jeyakarthick for R2 & R3

ORDER

This writ petition has been filed challenging the proceedings of the first respondent, dated 19.02.2021, wherein, the request made by the petitioner for disconnection of the electricity connection in order to carry out the renovation work in the well, was rejected by the first respondent on the ground that it was opposed by the second and third respondents.

2.Heard Mr.R.J.Karthick, learned counsel for the petitioner, Mrs.M.Rajeswari, learned counsel for Mr.S.M.S.Johnny Basha, learned Standing counsel for the first respondent and Mr.M.S.Jeyakarthick, learned counsel appearing for the respondents 2 and 3.



3.It is seen from the records that the subject property was originally owned by the mother of the petitioner and the petitioner became the owner of the property by virtue of a gift deed executed by his mother, on 14.12.2018 and this document was also registered as document No.5909/2018. The petitioner wanted to renovate the existing well in the property on the ground that it has become dilapidated. A request was made to the first respondent for disconnecting the electricity service connection to enable the petitioner to go ahead with the renovation work. This request was rejected by the first respondent on the ground that it was opposed by the second and third respondents.

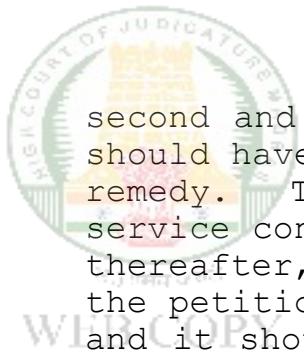
4.It is seen from the records that the second respondent is claiming a right over the property by virtue of a mortgage deed that is said to have been executed by the mother of the petitioner. It is also seen that a suit was filed by the second respondent in O.S.No.60 of 2019, seeking for the relief of bare injunction against the mother of the petitioner. The mother of the petitioner also filed a counter claim for redemption of the mortgage. This suit was disposed of by a judgment and decree dated 23.06.2020 and the suit filed by the second respondent was dismissed and the counter claim was allowed. According to the petitioner, this decree has reached its finality.

5.The third respondent is claiming the right on the ground that the mortgage deed to an extent of 1 acre and 9 cents has been made over to him by virtue of a document, dated 15.12.2014.

6.The learned counsel appearing on behalf of the second and third respondents contended that there was an agreement of sale executed by the mother of the petitioner and an advance amount was also received and thereafter, a ratification deed was also executed. By virtue of those documents, the respondents 2 and 3 claimed to be in possession and enjoyment of the property.

7.It is an admitted case that the property stands in the name of the petitioner. The earlier suit filed by the second respondent has been disposed of. At the best the second and third respondents can only claim to be agreement holders. No steps have been taken by them to either get a sale deed in their favour or approach an appropriate Civil Court, seeking for the relief of specific performance. In any case, this Court does not want to go into the *inter-se* dispute between the petitioner and the respondents 2 and 3. The only issue that arises for consideration is as to whether the request made by the petitioner should have been considered by the first respondent.

8.In view of the fact that the property stands in the name of the petitioner and the electricity service connection also stands in the name of the petitioner, the first respondent ought to have acted in accordance with the application given by the petitioner. However, if the



second and third respondents have any right over the property, they should have approached the appropriate Civil Court to work out their remedy. The petitioner is only seeking for disconnection of the service connection to enable the petitioner to renovate the well and thereafter, to restore the service connection. This request made by the petitioner ought to have been considered by the first respondent and it should not have been rejected only based on objections made by the second and third respondents.

9.In view of the above discussion, the impugned proceedings of the first respondent, dated 19.02.2021 is hereby quashed and there shall be a direction to the first respondent to disconnect the service connection for some time to enable the petitioner to renovate the well and thereafter, the service connection can be restored. The first respondent while disconnecting the service connection can fix a time limit for the petitioner to carryout the renovation work in the well and the work shall be completed by the petitioner, within the time limit. It is made clear that if the second and third respondents have any independent claim over the property, they have to work out their remedy before the appropriate Civil Court in the manner known to law.

10.This writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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.

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Tamil Nadu Generation and
Distribution Corporation, (TANGEDCO),
Chinnamanur,
Theni District.

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