



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 24.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.10075 of 2021

(Through Video Conferencing)

N.Senthil

... Petitioner

Vs.

The Assistant Engineer,
Tamil Nadu Electricity Board,
Viraganoor
Madurai, Madurai District.

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondent to give agricultural electricity service connection situated in Survey No.24/4 for an extent of 1 acre 21 cents which is situated at Kallambal Village as Government poramboke land in the light of petitioner's representation dated 24.03.2021 within a stipulated time fixed by this Court.

For Petitioner :Mr.S.Balaji

For Respondent :Mr.S.M.S.Johnny Basha

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to give domestic service connection for the subject property based on the representation made by the petitioner on 24.03.2021.

2.The case of the petitioner is that he is in possession and enjoyment of agricultural lands in S.No.24/4 measuring an extent of 1 acre and 21 cents, which is admittedly a Government poramboke land. The petitioner has put up a small construction to enable the petitioner and his family members to stay in the property, while they do the agricultural activities.

3. The petitioner, therefore, made an application to the respondent seeking for electricity service connection. Since the same was not considered, the present writ petition has been filed before this Court.

4. The respondent has filed a counter affidavit in this case. The respondent has stated that the property in question is classified as a Government poramboke land and hence, the petitioner



must get a no objection certificate from the concerned officer and must satisfy the requirements under Regulation 27(12) of the Tamil Nadu Electricity Distribution Code (hereinafter referred to as 'the Code'). It is further stated that the petitioner had earlier approached this Court and filed W.P.(MD) No.16271/2019 with a similar prayer and this Court directed the petitioner to get a no objection certificate from the Tahsildar and submit the same before the respondent. Without producing any no objection certificate, the present writ petition has been filed before this Court for a similar relief. Therefore, the respondent has sought for the dismissal of the writ petition.

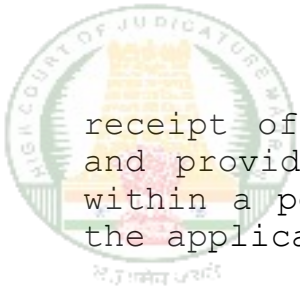
5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. In the considered view of this Court, even though Regulation 27(12) of the Code provides for getting a no objection certificate from an Officer not less than the rank of Deputy Tahsildar, in reality no Tahsildar will issue such a no objection certificate. The authority will be under the impression that if such a no objection certificate is granted, the occupier of the property will take advantage of the same and claim a right over the property. Therefore, there is a requirement provided under the Regulation, which can never be fulfilled.

7. This Court has repeatedly held that even an encroacher is entitled for electricity service connection. Even under the relevant Regulation, a person, who is in occupation of a poramboke land, can be given electricity service connection. However, certain conditions have been imposed. Out of those conditions, the applicant can fulfill all the other requirements except getting a no objection certificate from the concerned authority.

8. In view of the above, in order to strike a balance, it will be more appropriate if the petitioner is directed to give an indemnity bond to the effect that he will not claim any right over the property by virtue of the department providing electricity service connection and that the petitioner will vacate and hand over the property as and when the property is required by the Government. If such an undertaking is given by the petitioner, it will almost have the effect of a no objection certificate.

9. In the result, there shall be a direction to the petitioner to make a fresh application to the respondent seeking for domestic electricity service connection by fulfilling the requirements under Regulation 27(12) of the Code except getting the no objection certificate from the concerned authority. Instead the petitioner shall give an indemnity bond to the effect that the petitioner will not claim any right over the subject property and will vacate and hand over the property as and when claimed by the Government. On



receipt of the same, the respondent shall process the application and provide the necessary domestic electricity service connection within a period of two weeks from the date of receipt of a copy of the application from the petitioner.

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10. The writ petition is disposed of with the above direction.
No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Assistant Engineer,
Tamil Nadu Electricity Board,
Viraganoor
Madurai, Madurai District.

+1 CC to M/s.S.BALAJI, Advocate (SR-20278[F] dated 25/06/2021)

W.P. (MD)No.10075 of 2021

24.06.2021

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