



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD) .No.17832 of 2021

and W.M.P. (MD)No.14703 of 2021

WEB COPY

P.Thirumeni

... Petitioner

Vs.

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Ramanathapuram District,
Ramanathapuram.
- 3.The Block Development Officer,
Sayalkudi Panchayat Union,
Ramanathapuram District.
- 4.The Assistant Executive Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Sayalkudi, Ramanathapuram District.
- 5.The President,
Kannirajapuram Village Panchayat,
Kadaladi Taluk,
Ramanathapuram District.

6.Jawahar

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 23.07.2021 and take necessary steps to disconnect the electricity connection in Survey.Nos.143, 140 and 151 of an extent of 12 acres and 30 cents at Kannirajapuram Village Post, Kadaladi Taluk, Ramanathapuram District.

For Petitioner	: Mr.P.Muthusamy
For R1	: Mr.K.S.Selva Ganesan Counsel for State
For R2 & R4	: Mrs.M.Rajeswari for Mr.S.M.S.Johnny Basha Standing Counsel



For R3 & R5

: Mr.P.Subbaraj

ORDER

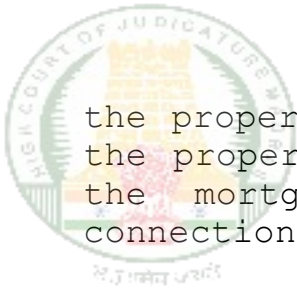
The petitioner seeks a direction to the second respondent to disconnect the electricity connection in respect of the property bearing S.Nos.143, 140 and 151 of an extent of 12 acres and 30 cents at Kannirajapuram Village Post, Kadaladi Taluk, Ramanathapuram District.

2.The petitioner states that his uncle was the owner of the above mentioned property. His uncle is said to have executed an unregistered mortgage deed dated 13.07.1995 in his favour. The petitioner claims that his uncle received a sum of Rs.10,50,000/- pursuant to such mortgage deed. Thereafter, it appears that the relevant property was alienated in favour of the sixth respondent under sale deed dated 26.05.1998. According to the petitioner, the sixth respondent company had purchased lands in Kannirajapuram Village in order to establish a Thermal Power Plant. Subsequently, it is stated that such Thermal Power Plant was not set up and the sixth respondent decided to relocate such power plant to the State of Gujarat.

3.Meanwhile, the petitioner states that the sixth respondent has obtained an electricity service connection. After issuing a representation dated 23.07.2021, the petitioner seeks the disconnection of such electricity service connection.

4.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of the first respondent and Mr.P.Subbaraj, learned counsel, accepts notice on the behalf of respondents 3 and 5. Mrs.M.Rajeswari, learned counsel representing Mr.S.M.S.Johnny Basha, learned Standing Counsel for the TANGEDCO, accepts notice on behalf of respondents 2 and 4.

5.The documents on record include the sale deed dated 03.01.1987 in favour of one Gurusamy Nadar and a sale deed dated 26.05.1998 executed by the said Gurusamy Nadar in favour of the sixth respondent. Therefore, the documents on record indicate that the owner of the property is the sixth respondent. The petitioner relies upon a mortgage deed dated 13.07.1995. Upon perusal thereof, it is evident that the said mortgage deed is unregistered. Except with regard to an equitable mortgage by deposit of title deeds, other forms of mortgage are required to be registered. Even as regards a mortgage by deposit of title deeds, the memorandum of deposit of title deeds is required to be registered. In the absence of such registration, under Section 49 of the Registration Act 1908, no interest is conveyed in the relevant property. In addition, a mortgagee is not the owner of



the property and is only entitled to enforce rights in respect of the property depending on the nature of mortgage. In any event, the mortgagee cannot seek disconnection of the electricity connection issued to the owner of the property.

7. For reasons set out above, the petitioner has completely failed to make out a case for issuance of the direction requested for. Therefore, W.P.(MD)No.17832 of 2021 is dismissed without any order as to costs. W.M.P.(MD)No.14703 of 2021 is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Superintending Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Ramanathapuram District,
Ramanathapuram.
- 3.The Block Development Officer,
Sayalkudi Panchayat Union,
Ramanathapuram District.
- 4.The Assistant Executive Engineer,
Tamil Nadu Electricity Board (TANGEDCO),
Sayalkudi, Ramanathapuram District.

+1 CC to M/s.P.MUTHUSAMY, Advocate (SR-31132[F] dated 05/10/2021)
+1 CC to M/s.SPL.GP (SR-31221[F] dated 05/10/2021)

W.P (MD) .No.17832 of 2021
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