



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.18641 of 2021

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N.Gandhimani

... Petitioner

Vs.

1.The District Collector,
O/o. the District Collector,
Collectorate,
Sivagangai District.

2.The Executive Engineer,
O/o. the Executive Engineer,
Thirupathur Town,
Sivagangai District.

3.The Assistant Engineer,
O/o. the Assistant Engineer,
Tamil Nadu Electricity Board,
Thirupathur Town,
Sivagangai District.

4.Magalingam

5.Senthil Kumar

... Respondents

(R-4 and R-5 are impleaded vide Court order dated 12.11.2021 in W.M.P(MD).No.16961 of 2021 in W.P(MD).No.18641 of 2021)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the respondents no.2 and 3 to provide electricity reconnection to the petitioner's house in new Survey No.72/2, old Survey No.477/21 situated at Manamelpati Village and Panchayat, Thirupathur Union, Sivagangai District by considering the petitioner's representation dated 04.10.2021.

For Petitioner	:	Mr.G.Prabhu Rajadurai for S.M.A.Jinnah
For R-1	:	Mr.J.John Rajadurai Government Advocate
For R-2 and R-3	:	M/s.M.Rajeswari For Mr.S.M.S.Johnny Basha Standing Counsel
For R-4	:	Mr.S.A.Ajmal Khan



ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction against the second and third respondents/ the Executive Engineer, Thirupathur Town, Sivagangai District and the Assistant Engineer, Tamil Nadu Electricity Board, Thirupathur Town, Sivagangai District to grant electricity connection to the house of the petitioner at new Survey No.72/2, old Survey No.477/21 situated at Manamelpati Village and Panchayat, Thirupathur Union, Sivagangai District. The petitioner had given a representation on 04.10.2021.

2. Mr.J.John Rajadurai, learned Government Advocate, appears on behalf of the first respondent, Mrs.M.Rajeswari, learned Standing Counsel, appears on behalf of respondents 2 and 3 and Mr.S.A.Ajmal Khan, learned counsel, appears on behalf of the fourth respondent.

3. The petitioner claimed that he had constructed a house and had given an application for electricity connection through online in Reference No.20000547609211101 on 20.09.2021. Aggrieved that, the said application had been kept pending by the second and third respondents, the petitioner has come before this Court seeking a Mandamus as aforesaid.

4. During the pendency of the Writ Petition, it came to light that the petitioner had also a running civil dispute with his brother and the son of another brother and this necessitated that they should also be impleaded as respondents and accordingly they have been impleaded as fourth and fifth respondents.

5. The primary apprehension of the learned counsel for the respondents 4 and 5 is that there is a dispute with respect to the property itself and such dispute is now pending before the District Munsif Court in O.S.No.16 of 2020 which is a suit filed by the fourth and fifth respondents.

6. In that particular suit, the present petitioner is the first defendant. There are also three other defendants who are public officials. The said suit had been filed seeking declaration that the suit property, had devolved jointly to the first plaintiff/Magalingam/the fourth respondent and the first defendant/N.Gandhimani/the writ petitioner and their family members and therefore, the grant of building permission to the first defendant, is not proper in law and also that the plan approval obtained by the first defendant therein/the writ petitioner herein should be interfered with. This suit is admittedly pending before the District Munsif Court, Thirupathur.

7. It is also very fairly seen that the fourth respondent herein had stated that the suit property jointly belongs to the writ



petitioner and to the fourth respondent and to their family members. In that particular suit, the fifth respondent is also a co-plaintiff. Let the learned District Munsif decide the particular suit in the manner known to law. Pending that suit, the petitioner herein had given an application for fresh service connection.

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8. Today, it is informed that the building plan has been rejected by the appropriate authorities. It is also stated that the online application has been cancelled. In view of these factors, it will only be appropriate that the petitioner herein makes a fresh application through online. But however, since there is an underlying dispute with respect to the particular portion to which the petitioner and the fourth and fifth respondents are entitled, it is also appropriate that the petitioner herein gives necessary indemnity bond as required under the rules of the Electricity Department and also gives an affidavit to the Electricity Department that by getting a service connection he cannot claim further right, title or interest over the property or rather claim that the grant of fresh electricity connection was on the basis that he has a better right than the fourth and fifth respondents with respect to the title of the property. Such an affidavit may be filed before the appropriate authorities and may also be filed before the District Munsif Court in O.S.No.16 of 2020.

9. I am confident that indemnity bond and such an affidavit would protect the interest of respondents 4 and 5 with respect to any questions raised touching upon the right, title or interest or any other aspects with respect to the property concerned. On receipt of fresh online application along with indemnity bond and affidavit and any further requirement as required by the Electricity Board, the second and third respondents are under an obligation to provide electricity service connection provided necessary charges are paid by the petitioner herein.

10. It is again reiterated that the grant of electricity connection will not and can never touch upon the right, title and interest of the fourth and fifth respondents. I am also informed that the petitioner has benefit of existing two electricity connections namely a commercial connection for the shop and also domestic connection.

11. If the petitioner feels that he is in a position to pay the charges for all the service connections, and if the service connections are provided in accordance with the rules and after ensuring that it does not touch upon the title of the property, it is for the petitioner to bear such charges. There is an obligation on the Electricity Board to grant electricity service connection provided all documents are in order, within a period of four (4) weeks from the date of receipt of fresh online application in aforesaid terms.



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12. With the above observations, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Nsr/Lm

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,
O/o. the District Collector,
Collectorate,
Sivagangai District.
- 2.The Executive Engineer,
O/o. the Executive Engineer,
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RD(08.12.2021) 4P 4C