



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.19098 of 2021

M.Mayakrishnan

... Petitioner

vs.

1.The Superintendent Engineer,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Madurai Electricity Circle,
K.Pudur, Madurai-7,

2.The Assistant Engineer,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Kallikudi, Madurai District.

3.Alagammal

... Respondents

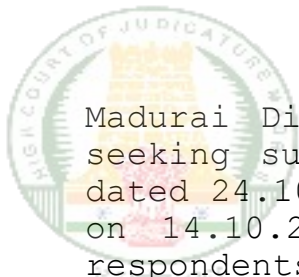
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 herein to provide New Electricity Service Connection for the residential premises in 3/45, East Street, Maruthangudi Village, Thirumangalam Taluk, Madurai District by consider the petitioner's duly filed application from dated 24.10.2019 and 29.07.2021 and representation dated 14.10.2021 within a time stipulated by this Court.

For Petitioner	: Mr.V.Meenakshisundaram
For R1 & R2	: Mrs.M.Rajeswari for Mr.SMS.Johnny Basha Standing Counsel
For R3	: Mr.R.Anand

O R D E R

Heard Mr.V.Meenakshisundaram, learned counsel for the petitioner. Mrs.M.Rajeswari, learned counsel representing Mr.SMS.Johnny Basha, learned Standing Counsel, takes notice for the first and second respondents and Mr.R.Anand, learned counsel, takes notice for the third respondent.

2.The writ petition has been filed in the nature of Writ of Mandamus, seeking a direction to the respondents 1 and 2 to provide New Electricity Service Connection for the residential premises in 3/45, East Street, Maruthangudi Village, Thirumangalam Taluk,



Madurai District. The petitioner had given necessary application seeking such electricity connection by filing an application form dated 24.10.2019 and further form on 29.07.2021 and a representation on 14.10.2021. Since the same has not been considered by the respondents 1 and 2, the petitioner had come before this Court.

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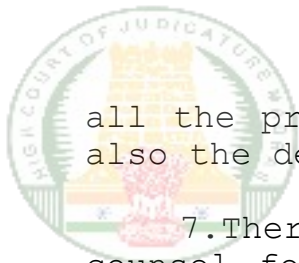
3. Notice had been directed to the third respondent and learned counsel had entered appearance. The learned counsel had also advanced elaborate arguments and had also relied on a Judgment of the Division Bench of this Court delivered on 22.01.2018 in ***W.A. (MD) No.1458 of 2017 [V.Geetha Vs. The Superintending Engineer, Thanjavur Sub-Division Office, Thanjavur Electricity Board, Thanjavur District and three others]***.

4. The facts are as follows:-

The petitioner, Mr. Mayakrishnan had a brother Thavamani. They are the sons of Maruthan. Maruthan had properties. Thavamani is the husband of the third respondent, Alagammal. It is stated in the affidavit that Thavamani and Alagammal had no children. It is also stated that Alagammal owing to various other circumstances had been permitted to reside in the said house. However, since she laid claims with respect to the title, the petitioner and his three sons had filed O.S.No.34 of 2018 before the Sub Court at Thirumangalam against Alagammal, the third respondent herein. The said suit had been filed for declaration of title and for injunction seeking protection of possession or restraining the third respondent from interfering with peaceful possession. The petitioner also claims devolution of title by way of a Will executed by the said Maruthan. It is, therefore, seen that the petitioner claim lawful title and also claims possessory rights over the said property. In view of the suit, which is pending, the respondents had imposed a condition that the petitioner should give an indemnity bond that any service connection granted would be a subject to the decision taken in the said suit.

5. The learned counsel for the third respondent had raised objections and has relied on the Judgment aforementioned in ***W.A. (MD) No.1458 of 2017 [V.Geetha Vs. The Superintending Engineer, Thanjavur Sub-Division Office, Thanjavur Electricity Board, Thanjavur District and three others]***. The facts therein are totally different. There, the individual who sought electricity connection was declared to be a rank trespasser with no right, title or interest over the property.

6. In this case, the petitioner seeks electricity connection over a property, in which, he has a lawful right, owing to the fact that the property originally belonged to Maruthan, the father of the petitioner herein. The particular portion of the properties of the said Maruthan which would devolve on the petitioner are subject matter for determination in the civil suit, in which, practically



all the properties have been mentioned and the third respondent is also the defendant.

7. Therefore, the Judgment which had been relied by the learned counsel for the third respondent cannot be made applicable to the facts of this case, where a son seeks electricity connection to a property which has devolved on to him from his father. He had a brother and the wife of the brother, had also made a rival claim over the property. That claim will have to be decided in the suit, but certainly, the petitioner cannot by any such of imagination be declared to be a trespasser without any right over the property. The issue of possession is an issue which can be decided only on the basis of evidence in the civil Court. This Court cannot enter into a discussion on the issue of possession.

8. It is advisable that the Civil Court alone decides that fact on the basis of the evidence adduced the petitioner. Evidence will be adduced only during the course of trial. Such evidence can naturally be tested by certainly with the particular findings. Till such time, I find no objection in granting a mandamus to the respondents provided, the petitioner herein gives necessary indemnity bond. Such electricity connection can be provided subject to the result of the suit. The objections of the third respondent should not have been countenanced at all. There should be some dignity in recognizing the status of a son or rather the brother or her own husband and he cannot be categorized as a trespasser in the property. I hope that this is not the personal view of the third respondent and I further hope that it is not an idea thrust upon by the counsel for the third respondent.

9. I therefore, issue a mandamus to the respondents 1 and 2 to grant electricity connection provided, indemnity bond is given by the petitioner and subject to any other rules which are in force. The writ petition stands allowed. No costs.

10. It is submitted by the learned Standing Counsel for the respondents 1 and 2 that a fresh application will have to be given by the petitioner through online. Let him comply the said procedure in accordance with the stipulations of the respondents 1 and 2 and thereafter, let the respondents 1 and 2 grant service connection within a reasonable period of time.

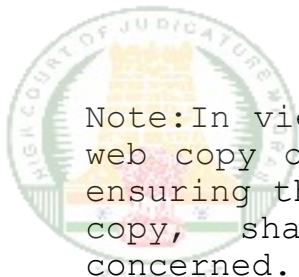
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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.

To

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1. The Superintendent Engineer,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Madurai Electricity Circle,
K.Pudur, Madurai-7,

2. The Assistant Engineer,
Tamil Nadu Electricity Generation and Distribution
Corporation Limited,
Kallikudi, Madurai District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-40044[F]
dated 22/12/2021)

W.P. (MD) No.19098 of 2021
22.12.2021

NSN (CO)
GC(31.12.2021) 4P 4C