



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.R.P. (PD) (MD)No.797 of 2014

and

M.P. (MD)No.1 of 2014

Vedamuthu

... Petitioner/Plaintiff

versus

1. Bella Flowrence

2. Christal

3. Jerin Sonal Vino

... Respondents 1 to 3/
Defendants 4 to 6

4. The Chairman

Tamil Nadu Electricity Board,
Anna Salai, Chennai.

5. The Assistant Divisional Engineer,
Tamil Nadu Electricity Board,
Puthukkadai, Puthukkadai Post,
Kanyakumari District.

6. The Junior Engineer,
Tamil Nadu Electricity Board,
Puthukkadai, Puthukkadai Post,
Kanyakumari District.

... Respondents 4 to 6/
Defendants 1 to 3

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 08.10.2013 made in I.A.No.125 of 2013 in O.S.No.447 of 2012 on the file of the Principal District Munsif Court, Kuzhithurai.

For Petitioner : Mr.Jeen Felix

for Mr.S.C.Herold Singh

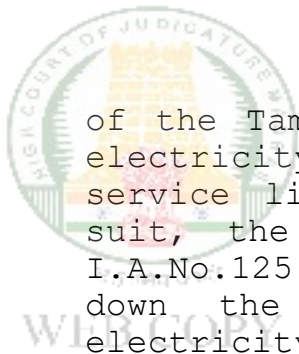
For Respondents: Mr.R.Ramachandran for R1 to R3

Mr.M.Mohanbabu for R4 to R6

ORDER

Challenge in the revision is to the order of the Trial Court appointing a Commissioner at the instance of the defendants 4 to 6 in O.S.No.447 of 2012 to note down the physical features of the property.

2. The suit is filed by the petitioner seeking a permanent injunction restraining the defendants 1 to 3, who are the Officials



of the Tamil Nadu Electricity Board, restraining them from giving electricity connection to the defendants' property by drawing a service line across the plaintiff's property. Pending the said suit, the defendants 4 to 6 filed the instant application in I.A.No.125 of 2013 seeking appointment of a Commissioner to note down the physical features, since, according to them, the electricity service lines can be drawn over the pathway and the channel in existence in the vicinity of the suit property. This was opposed by the plaintiff contending that an earlier suit for partition is pending and there is an order of status quo in the said suit. Rejecting the defence, the learned trial Judge appointed a Commissioner.

3. I have heard Mr.Jeen Felix, learned counsel appearing for Mr.S.C.Herold Singh, learned counsel for the petitioner.

4. Mr.Jeen Felix, learned counsel, would strenuously contend that the trial Court was not right in appointing the Commissioner, more so, when an order of status quo granted in O.S.No.1101 of 1969 was in force. He would also submit that the defendants cannot fish for evidence through the appointment of Commissioner.

5. I have considered the submissions of the learned counsel for the petitioner.

6. The first objection of the learned counsel for the petitioner is clearly unsustainable. The suit in O.S.No.1101 of 1969 appears to be a partition suit between the plaintiff's predecessors. The status quo order in the said suit will not prevent the Court from appointing a Commissioner in the subsequent suit between the plaintiff and the third party. The plaintiff seeks an injunction restraining the Electricity Board from effecting service connection to the defendants' property by taking wires across the plaintiff's property. The very right of the plaintiff to seek such an injunction is doubtful. However, I do not propose to go into the larger question in this revision.

7. The defendants 4 to 6 have pleaded that they need to establish the physical features to show the Court that the plaintiff will not be prejudiced by drawing of supply lines, since there is a pathway and channel, which is in existence in the vicinity of the suit property. I do not think, this attempt made by the defendants could be termed as one to collect evidence. This suit is for injunction restraining the defendants 1 to 3 from effecting service connection to the property of defendants 4 to 6 by taking service lines through the plaintiff's property. The physical features of the property assume more importance and the best way to ascertain the physical features, in my opinion, is by appointment of Commissioner. Therefore, I see no material irregularity and illegality in the order of the trial Court. Therefore, the Civil Revision Petition fails and it is accordingly dismissed. No costs.



Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)

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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 Principal District Munsif Court,
Kuzhithurai.
2. The Chairman
Tamil Nadu Electricity Board,
Anna Salai, Chennai.
3. The Assistant Divisional Engineer,
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Puthukkadai, Puthukkadai Post,
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VR(CO)

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