



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.07.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD) .Nos. 11346 to 11351 of 2016
and
W.M.P (MD) .Nos.8703 to 8708 of 2016

W.P (MD) .No.11346 of 2016:

P.Ramaiah ... Petitioner in WP(MD) .No.11346 of 2016
Murugan, ... Petitioner(s) in WP(MD) . 11347/ 2016
Arumugam ... Petitioner(s) in WP(MD) . 11348/ 2016
P.Ramaiah, ... Petitioner(s) in WP(MD) . 11349/ 2016
P.Ramaiah ... Petitioner(s) in WP(MD) . 11350/ 2016
Alphonse, ... Petitioner(s) in WP(MD) . 11351/ 2016

Vs.

1. The Assistant Executive Engineer,
Distribution/Urban,
TANGEDCO, Shanthi Nagar,
Palayamkottai, Tirunelveli.

2.The Executive Officer,
Arulmigu Venkatachalapathi Temple,
Thimmarajapuram,
Tirunelveli District. ... Respondents in all Wps.

Prayer: Writ petition is filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the 1st respondent to give electricity supply to the petitioner's shop in 194, Ganapathypuram, Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

Prayer in WP(MD) . 11347/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to give electricity supply to the petitioners shop in 100.A2, Pillaiyarkovil Street,



Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

Prayer in WP(MD). 11348/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing 1st respondent to give electricity supply to the petitioners house in 7/245A1, Pillayarkovil Street, Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

Prayer in WP(MD). 11349/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to give electricity supply to the petitioners shop in 194-A, Ganapathypuram, Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

Prayer in WP(MD). 11350/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing 1st respondent to give electricity supply to the petitioners Shop in 194-A1, Ganapathypuram , Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

Prayer in WP(MD). 11351/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to give electricity supply to the petitioners house in 6/18A, Andal Street, Thimmarajapuram, Palayamkottai, Tirunelveli without insisting NOC to be obtained from the 2nd respondent.

For Petitioner : Mr.S.Selvakumar
in all 6 Wps.
For Respondent No.1 : Mr.G.Kasinathadurai
in all 6 WPs.
For Respondent No.2 : Mr.H.Arumugam
in all 6 Wps.

COMMON ORDER

All these writ petitions have been filed seeking for the issue of writ of mandamus directing the first respondent to give electricity supply to the shops belonging to the petitioners without insisting for a 'No Objection Certificate' from the second respondent temple.



2. Heard Mr.S.Selvakumar, learned counsel appearing on behalf of the petitioner, Mr.G.Kasinathadurai, learned counsel appearing on behalf of the first respondent and Mr.H.Arumugam, learned counsel appearing on behalf of the second respondent.

3. The issue involved in all these writ petitions is squarely covered by the Division Bench Judgment of this Court in W.A.(MD). No.444 of 2017 dated 26.04.2017. The relevant portions in the judgment are extracted hereunder:

"2.The undisputed fact is that the land is owned by the second respondent temple and the appellant is an encroacher. There are several orders passed by this Court where the Electricity Board will be indemnified by executing a indemnify bond and based on the same electricity supply has been given. However, there is no universal rule that on furnishing an indemnify bond electricity supply has to be given to the encroacher on a Government land or temple land. The concept of executing a indemnify in favour of the electricity board for getting electricity supply would arise when a party is in lawful occupation, which is not the case of the appellant. We found that more often the procedure under the relevant regulation providing for furnishing an indemnify bond for obtaining electricity supply is misused probably with the connivance of the officials.

3.The learned counsel appearing for the second respondent temple would submit that land in question is a valuable piece of land in Tirunelveli Town and the appellant/writ petitioner is continuing to encroach and attempting to usurp the temple land. Further, because of the influence the appellant has in that area, a police complaint given by the Executive Officer of the second respondent temple has not been entertained and no case has been registered.

4.The learned counsel for the appellant would submit that there are several similarly placed persons as that appellant who are residing there for several decades. We are not inclined to accept the submissions for the simple reason even continued enjoyment of the temple property cannot confer any right on the appellant as he is an encroacher.

5. The submission of the appellant that the rights enshrined under Article 21 of the Constitution of India will be defeated, if electricity is not provided, has to be rejected as a person who is an encroacher cannot state that equity is in his favour when his conduct is not equitable. Therefore, the learned Single Judge was fully justified in rejecting the relief sought for by the appellant. We find no



grounds to take a different view and the writ appeal fails and the same is dismissed.

6. We deem it fit to observe that it is open to the second respondent temple to take appropriate action for removal of the encroachments and if criminal complaints are not entertained, the Executive Officer of the second respondent temple is directed to present a petition before the Commissioner of Police, Tirunelveli City, along with a copy of this order, so that appropriate directions may be issued to the concerned police for taking necessary legal action against the encroachers/land grabbers of temple properties. If in case any difficulty in prosecuting the complaint before the police, it is open to the second respondent temple to approach the Jurisdictional Magistrate by way of a private complaint."

4. In view of the above, the relief sought for by the petitioners cannot be granted by this Court and whatever directions have been issued by the Division Bench at paragraph No.6 of the order will equally apply to the petitioners also.

5. In the result, all the writ petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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.

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-21481[F]
dated 07/07/2021)

W.P. (MD).Nos. 11346 to 11351 of 2016
06.07.2021

PM(CO)

KB(14.07.2021) 4P 2C