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W.P.No.33826 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.33826 of 2015

&

W.M.P.No.27875 of 2019

P.Kaliammal

... Petitioner

Vs.

1. The Chief Engineer
P.W.D., W.R.O
Upper Cauvery Basin Division
Trichy Division
Subramaniyapuram
Tiruchirapalli-20

2.The Executive Engineer
Public Works Department
W.R.O. Upper Cauvery Basin Circle
Salem-7

3.The Executive Engineer
Public Works Department
W.R.O. Sarabanga Basin Division
Namakkal

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India

praying to issue a Writ of mandamus directing the 3rd respondent to issue no



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objection certificate for getting electricity connection in the name of the petitioner for the Well in the agricultural land in Survey No.114/2 in S.Valavanhi Village, Paramathi Taluk, Namakkal District, for irrigating the agricultural lands in Suvery Nos.113/1A, 113/1D,113/1F and 113/1H in S.Valkavanthi Village, Paramathi Taluk, Namakkal District without insisting the special permission from the Government in the letter sent by the 3rd respondent to the 2nd respondent in letter sent by the 3rd respondent to the 2nd respondent in letter No.34/SE/vapa/vaa/ko.4/2015 dated 25.05.2015.

For Petitioner : Mr.S.Baskaran

For Respondents : Mr.P.Sathish, AGP for R1 to 3

ORDER

This Writ Petition is filed seeking a direction to the 3rd respondent to issue No objection certificate for getting electricity connection in the name of the petitioner for the Well in S.No.114/2 in S.Valavanthi Village, Paramathi Taluk, Namakkal District.

2. It is the case of the petitioner that she purchased land in S.Nos.133/1A,133/1D,133/1F and 133/1H in S.Valavanthi Village,



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Paramathi Taluk, Namakkal district. There is a common Well in S.No. 114/2

which is connected with Kumarapalayam Channel. The petitioner vendor was originally member of the Kumarapalayam Channel lift irrigation Co-operative Society, Olapalayam Post, Paramathy Taluk, Namakkal district and after purchase she also became member of the said society. The lands are irrigated by taking water from well in S.No.114/2. The petitioner has applied for electricity connection by letter dated 16.08.2013. However, the Assistant Engineer directed her to produce no objection certificate from the Public Works Department. As no action was taken by the 2nd respondent the petitioner filed W.P.No.4192 of 2014, directing the 2nd respondent to grant no objection certificate. This Court by order dated 10.03.2015 directed the 2nd respondent to consider her application and pass orders on merits. The 3rd respondent conducted an oral enquiry on 21.05.2015 as per the orders of this Court. Thereafter, no orders have been passed. Now it came to know that the 3rd respondent has sent a reply to the effect that the connection should be given only in the name of lift irrigation Society and Executive Engineer has no power to give a no objection certificate. However, the President of the Kumarapalayam Channel lift irrigation Co-operative Society also gave a statement to the effect that it is not feasible to get electricity



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connection in the name of the Society and joint name of all the members and they have no objection for granting electricity connection for individual members.

3. Letter has been addressed to the 2nd respondent to get special permission from the Government for giving no objection certificate in the name of the petitioner. It is the contention of the petitioner that G.O relied upon by the 2nd respondent viz., G.O.Ms.1588 will not apply to the Well. Whereas it applies only to drawing of the water from the channel. Hence, seeks direction.

4. Counter has been filed to the effect that necessary recommendation has been made to the Government through proper channel and they are awaited orders. As the Executive Engineer has no power for issuing no objection certificate for electricity connection to left irrigation for individual members against the G.O.Ms.1588 dated 03.10.1988. the recommendations are sent to the Government and orders are awaited.



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5. I have perused the entire materials.

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6. In an earlier occasion, the Writ Petitioner has filed a Writ Petition directing to issue no objection certificate. This Court by order dated 10.03.2015 in W.P.No.4192 of 2014, directed the respondent to consider and pass orders on merits. It appears that based on the above orders the respondent conducted an enquiry under the premise that the petitioner is drawing the water directly from the Channel. Therefore, only the Co-operative Society alone is entitled to get electricity connection and no individual member is entitled to get a connection. In the enquiry it is also transpired that President of the Society is also given a no objection letter to avail the service connection to the individual member.

7. Based on the above, stand of the Co-operative society recommendation is made to the 2nd respondent to get a special permission from the Government and letter is said to have been sent on 22.05.2015. However, no order is so far passed. When the 3rd respondent itself admitted that connection is sought only for the Well not to draw the water from the Channel and recommended for no objection certificate. Despite letter



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No.34kapa/vapa/vaa/ko4/2015 dated 25.05.2015 has been sent till now no

orders have been passed. G.O relied upon by the 2nd respondent when carefully perused, the same clearly shows that it relates to regularisation of the unauthorised pumpsets which are used for drawing water directly from the Channel. In order to regularize the unauthorised drawal of water the G.O has been passed to the effect ayacutdars should organize themselves into the Lift Irrigation Co-operative Society and company should be in the name of Co-operative Society only. Therefore, this Court is of the view that when the G.O is in respect of the regularization of unauthorized tapping of water from the Channel, the same G.O cannot be pressed into service to deny the electricity service connection to the existing Well in the respective patta land to draw the water from the Well. It is not the case of the respondents that petitioner has sought electricity connection only to draw the Water from the Channel. In such view of the matter, under the pretext of G.O.Ms.No.1588 dated 03.10.1988, the respondents cannot deny the No objection certificate for obtaining the electricity connection for the Wells which is situated within the patta lands.



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8. Accordingly, the respondents are directed to issue No objection Certificate to the petitioner within a period of one month from the date of receipt of a copy of this order.

9. With the above observation, this Writ Petition is ordered. Consequently, connected Writ miscellaneous petition is closed. No costs.

18.10.2022

kpr
Internet:Yes
Speaking/Non speaking order
To

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Trichy Division
Subramaniyapuram, Tiruchirapalli-20

2.The Executive Engineer
Public Works Department
W.R.O. Upper Cauvery Basin Circle
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3.The Executive Engineer
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N. SATHISH KUMAR, J.

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