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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.6111 of 2015

and

M.P.No.1 of 2015

D.Girija

...Petitioner

Vs

1. The Junior Engineer / O & M,
Agaram Cherry, Tamil Nadu Electricity Board,
Vellore District.

2. C.Saraswathi

3. G.Baggiyammal

4. C.Govindan

5. K.Munusamy

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to effect the new domestic service connection to the petitioner's premises at Nadu Street, Thollapalli Village, Vellore District, in petitioner name on the basis of application given by the petitioner on 15.10.2014 considering the documents enclosed with the said application, on getting necessary charges on a date fixed by this Honourable Court.

For Petitioner : Mr.P.Gunaraj
for Mr.L.G.Sahadevan

For Respondents :Mr.L.Jaivenkatesh
For TANGEDCO [For R1]

Mr.A.Thamammohideen
[For R2 to R5]

O R D E R

The relief sought for in the present writ petition is to direct the first respondent to effect the new domestic service connection to the petitioner premises at Nadu Street, Thollapalli Village, Vellore District, on the basis of the application given by the petitioner dated 15.10.2014.



2. The learned counsel for the petitioner contended that all the piece and parcel of the property situated at Nadu Street, Thollapalli Village, Vellore District, comprised in survey No.58/39 admeasuring 1400 sq.ft. is under peaceful possession and enjoyment of the petitioner. The petitioner states that she is paying the property tax and the Village Administrative Officer also issued a certificate. Along with the property tax receipt and certificate, the petitioner submitted an application before the Tamil Nadu Electricity Board for providing new Electricity service connection in the premises. However, the said application was not considered. Thus, the petitioner is constrained to move the present writ petition.

3. The learned counsel for the petitioner made a submission that the petitioner is entitled for electricity service connection under Clause 27(4) of the Tamil Nadu Electricity Distribution Code. The petitioner is ready to execute an indemnity bond and therefore, the Electricity Board authorities are bound to consider the case of the petitioner. The mere objection by the respondents 2 to 5 cannot be a ground to deny the electricity service connection to the petitioner as the petitioner is in possession and enjoyment of the property.

4. The learned counsel for the petitioner relied on the Ration card, property tax receipt and the enjoyment certificate issued by the Village Administrative Officer.

5. The learned counsel appearing on behalf of the Electricity Board disputed the said contentions by stating that no doubt, the respondents 2 to 5 raised an objection for providing electricity service connection. However, the petitioner has not established that she is lawful possession of the subject property for the purpose of invoking clause 27(4) of the Tamil Nadu Electricity Distribution Code. Thus, the petitioner is not entitled for the relief.

6. This Court is of the considered opinion that the certificate issued by the Village Administrative Officer on 09.10.2014 reveals that the land belongs to the Government. Therefore, the petitioner has constructed a house in Poromboke land and the Village Administrative Officer also issued a certificate, categorically stating that the land belongs to the Government. When the land belongs to the Government / Poromboke land, then Clause 27(12) is to be applied. Under Sub-Clause (12) to Clause 27 "Supply shall be given in poromboke land on production of-(i) No Objection certificate obtained from the Officer (not below the rank of Deputy Tahsildar) or (ii) Where such No Objection Certificate could not be produced by the applicant for service connection the further undertaking should be furnished." Therefore, when the land belongs to the



Government / Poromboke land, then the Electricity service connection cannot be provided under Clause 27 (4) of the Tamil Nadu Electricity Distribution Code and the competent authorities have to issue No Objection Certificate.

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7. In respect of the encroachers of Government land, they are not entitled for Electricity service connection. Encroachments can be removed at any point of time, if the Government is of an opinion that the land is required for the public usage. Therefore, mere possession would not confer any right. Encroachers are liable to be evicted, if such lands are to be utilized for public usage. This being the principles to be followed, if the land belongs to the Government, then the petitioner is eligible to submit an application along with No Objection Certificate to be issued by the competent authority of the Government. In the absence of any such No Objection from the competent Government authorities, the application for service connection cannot be considered at all. Mere payment of property tax receipt is insufficient. Therefore, it is to be ascertained by the competent authorities, whether the petitioner is an encroacher and if he is an encroacher of the poromboke land, he is not entitled for any relief. As far as the present writ petition is concerned, the petitioner has not established any right for the purpose of considering the relief as such sought for in the present writ petition.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Junior Engineer / O & M,
Agaram Cherry, Tamil Nadu Electricity Board,
Vellore District.

+1 cc to Mr L.G.Sahadevan., Advocate Sr.NO. 420

W.P.No. 6111 of 2015

AD(CO)

A.SK(21.01.2022)