

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13293 of 2020

N.Narayana Reddy

... Petitioner

Vs.

1. The Superintending Engineer,
TANGEDCO,
Krishnagiri Distrit,
Krishnagiri.
2. The Assistant Executive Engineer,
TANGEDCO,
Denkanikottai,
Krishnagiri District.
3. The Assistant Engineer,
TANGEDCO,
Denkanikottai,
Krishnagiri District.
4. C.Suresh Babu

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Ka. No. U.Se. Po/ E and Pa/ The. Ko./ KO. Thani/ A. No.087/ 20 dated 29.06.2020 and quash the same as illegal incompetent and ultravires and consequently direct the respondents to disconnect the electricity connection in EB Connection No.187 in S. Nos. 177, 179 and 193, Thandarai Village, Denkanikottai Taluk, Krishnagiri District, by considering the petitioners representation dated 03.06.2020.

For Petitioner : Mr.R.Jayaprakash

For RR1 to RR3 : Mr.L.Jaivenkatesh
Standing counsel

For RR4 : Mr.A.Ashwinkumar

O R D E R

The present Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent and quash the same as illegal incompetent and ultravires and consequently direct the respondents to disconnect the electricity connection in EB Connection No.187 in S. Nos. 177, 179 and 193, Thandarai Village, Denkanikottai Taluk, Krishnagiri District, by considering the petitioners representation dated 03.06.2020.

2. The petitioner is the resident of the above said address. After the death of the father of the petitioner, there is a civil dispute with regard to the said property between the parties, and in that regard, second appeals are still pending before this Court. Further, the joint family properties have not been partitioned so far, hence the judgments of the Courts below have not reached finality, since second appeals are pending before this Court. While being so, pending the first appeal, one of his brothers, namely Krishna Reddy sold the entire subject property to the 4th respondent. The petitioner has not sold his share in any of the property to the 4th respondent or to any third parties. At this juncture, the 4th respondent had illegally obtained patta in his favour. Hence, the petitioner had preferred an appeal to the District Revenue Officer, Krishnagiri and the District Revenue Officer, Krishnagiri directed his subordinate to remove the name of the 4th respondent from Patta no.617. Once again on 17.01.2006, the 4th respondent was issued with patta illegally and also obtained electricity connection on the very same day. Challenging the same, the petitioner has filed a Writ Petition before this Court and pursuant to the order of this Court, the Sub Collector, Hosur had cancelled the illegal patta which stood in the name of the 4th respondent. Aggrieved by the same, the 4th respondent filed an appeal before the District Revenue Officer, Krishnagiri and the same was allowed in favour of him. While being so, the petitioner had filed a Writ appeal and this Court had passed an order to keep in abeyance all the revenue proceedings pending second appeal. Further after cancellation of the illegal patta which stood in the name of the 4th respondent, the petitioner has approached the respondents to disconnect the electricity connection given in the name of the 4th respondent for his land. Instead of disconnecting the electricity supply, the 2nd respondent vide proceedings dated 28.07.2015 informed that though the Sub Collector, Hosur had cancelled the illegal patta, he had not directed the officials of TNEB to disconnect the electricity.

3. While such being the position, the 4th respondent had filed a Suit in O.S.NO.118 of 2010 before the Lower Court for a permanent injunction restraining the officials not to disconnect the electricity connection in Service Connection No.187 and the said Suit was decreed by way of judgment dated 27.02.2019 by directing the electricity board officials not to disconnect the electricity without following the procedures. However, the respondents had not taken any steps to implement the order of the Lower Court and thereby the petitioner sent a representation to the respondents on 03.06.2020 to disconnect the electricity connection given in the name of the 4th respondent, but no action was taken to disconnect the electricity supply. Later the 2nd respondent vide his proceedings dated 29.06.2020 stated that the Court below had passed judgment not to disconnect the electricity connection in Service connection no.187. Aggrieved by the said order of the 2nd respondent, the petitioner is before this Court by filing this Writ Petition.

4. The learned counsel appearing for the petitioner submitted that during the pendency of the Civil Suit, one of the brother of the petitioner had sold the property in favour of the 4th respondent. Thereafter, the 4th respondent without any authority obtained electricity service connection and therefore, the same is liable to be disconnected. However, the Electricity Board officials had refused to disconnect the electricity connection without understanding the judgment passed in O.S.No.118 of 2010 and hence the order dated 29.06.2020 passed by the 2nd respondent is liable to be quashed.

5. The learned Standing Counsel appearing for the Electricity Board submitted that already the 4th respondent has filed a Suit in O.S.No.118 of 2010 against the electricity Board and obtained permanent injunction and without due process of law, the Electricity service connection could not be disconnected. However in the present case, the petitioner is one of the brother of the vendor of the 4th respondent and unless the title dispute is decided before the Competent Court, the petitioner is not entitled to file application for disconnection of the electricity connection and accordingly prays of dismissal of this petition.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. Admittedly the 4th respondent has purchased the property from one of the brother of the petitioner and made application

for change of patta in his name and the Sub Collector, Hosur, had cancelled the patta granted in the name of the 4th respondent. Challenging the same, the 4th respondent has filed an appeal before the District Revenue Officer, Krishnagiri and the said appeal was allowed in favour of the 4th respondent. Against which, the petitioner had filed Writ Petition before this Court in W.P.NO.40358 of 2016, wherein this Court vide its order dated 12.06.2018, granted liberty to the petitioner to file a fresh application after disposal of the civil litigations pending before the Courts. Challenging the said order, the petitioner has filed W.A.No.3827/2019, wherein the Hon'ble Division Bench of this Court has disposed of the appeal and directed the Registrar (Judicial) to list the Second Appeals before the Bench. However, till date the civil litigations between the brothers are not resolved.

8. Considering the above facts and circumstances, this Court is of the view that without deciding the title dispute and on pendency of the civil litigations, making application before the Electricity Board for disconnection of electricity supply is not sustainable and therefore, the application filed by the petitioner is a frivolous application and the same cannot be considered, before title dispute is decided.

9. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintending Engineer,
TANGEDCO,
Krishnagiri Distrit,
Krishnagiri.

2. The Assistant Executive Engineer,
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Denkanikottai,
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3. The Assistant Engineer,
TANGEDCO,
Denkanikottai,
Krishnagiri District.

Copy to:
The Registrar (Judicial),
High Court, Madras.

+1cc to Mr.Ashwin Kumar, Advocate, S.R.No.2624

+1cc to Mr.Jayaprakash, Advocate, S.R.No.2789

W.P.No.13293 of 2020

MG(CO)
SU(10/02/2022)