

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14495 of 2020

Kanimozhi

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai.
- 2.The Assistant Engineer,
Tamil nadu Electricity Board,
Office of the Assistant Engineer,
Moovarasanpet, Keezhkattalai,
Chennai 600 117.

3.G.Kavitha

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to consider the representation given by the petitioner on 1.9.2020 to restore the electricity connection in the name of petitioners mother G.Jamuna (Yamuna) or to provide new electricity connection in the name of the petitioner in respect of the house New no.5 1st main Road Chelliamman Kovil Street Gandhi Nagar Keezhkattalai Chennai- 600 117.

For Petitioner : Mr.D.Rajagopal
For Respondents : Mr.L.Jaivenkatesh for R2
Ms.S.Anuradha Balaji for R3

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the 2nd respondent to consider the representation given by the petitioner on 1.9.2020 to restore the electricity connection in the name of petitioners mother G.Jamuna (Yamuna) or to provide new electricity connection in the name of the petitioner in respect of the house New no.5, 1st main Road, Chelliamman Kovil Street, Gandhi Nagar, Keezhkattalai, Chennai- 600 117.

2. The case of the petitioner is that the petitioner is the owner of the property bearing S.F.No.269, 5/4 of Chelliamman Koil Street in Keezhkatalai with an extent of 975 sq.ft undivided share out of 1950 sq.ft together with 1st floor building half share borewell, electricity etc., undivided share of land including 5 feet common passage. On 06.05.2009, the petitioner's mother Yamuna settled the above said property in favour of the petitioner and she is in possession and enjoyment of the property. As far as the ground floor is concerned, the petitioner's mother settled the property in favour of her sister G.Kavitha. Even after Settlement Deed executed by the petitioner's mother in favour of the petitioner, the electricity connection stands in the name of her mother. In March 2020, without the knowledge of the petitioner, the electricity service connection was transferred in the name of G.Kavitha and therefore, the petitioner gave representation to the respondent requesting to cancel her name and transfer the electricity connection in the name of the petitioner, however the said request was not considered. Since the representation was not considered, the petitioner further on 02.05.2020 and 01.09.2020, had given representations for the same relief. After receipt of the representations, till date the respondent did not consider the same. In this regard, the petitioner also filed a Civil Suit before the Civil Court and the same is pending. Aggrieved by the non consideration of the series of representations, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner alleged that the registered Settlement Deed was executed by the mother of the petitioner in favour of the 3rd respondent during the year 2019, whereas the petitioner's mother executed unregistered Settlement Deed in favour of the petitioner in the same year. For cancellation of the said Settlement Deed, the petitioner has already filed an application before the District Revenue Officer and the said application is pending and also filed a Suit in O.S.No.246/2019, on the file of the District Munsif Court, Alandur for permanent injunction. When such being the position, the respondent Electricity Board has illegally changed the electricity connection in the name of the 3rd respondent without considering the pendency of the civil proceedings, is not sustainable. Therefore, this Court may issue direction to the respondents to cancel the name of the 3rd respondent and transfer/restore the electricity connection in the name of the petitioner, within a reasonable time as fixed by this Court.

4. The learned standing counsel appearing for the respondents and the learned counsel appearing for the 3rd respondent submitted that already the petitioner's mother settled the property in the name of the 3rd respondent in the

year 2019 by way of registered Settlement Deed and the 3rd respondent also muted the revenue records accordingly and made application for change of electricity connection in her name and the said application was also considered and the electricity connection got transferred in the name of the 3rd respondent. Unless and until the said Settlement Deed executed in favour of the 3rd respondent is cancelled, the relief sought for by the petitioner cannot be granted and hence prays for appropriate orders.

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

6. Admittedly the relationship of the petitioner and the 3rd respondent is not in dispute. They are sisters. Originally the property stands in the name of mother of the petitioner and the 3rd respondent. The petitioner's mother executed Settlement Deed in favour of the 3rd respondent in the year 2019 and in order to cancel the same, the petitioner also made an application before the revenue officials, however till date it is not disposed. The petitioner also filed the Suit for permanent injunction against the Settlement Deed in question before the Civil Court.

7. Considering the above circumstances, this Court is of the opinion that unless the Settlement Deed executed by the mother in favour of the 3rd respondent is not cancelled, the grievance of the petitioner is not sustainable and hence the prayer sought in the present Writ Petition cannot be considered.

8. In the result, the Writ Petition is dismissed, however liberty is granted to the petitioner to workout their remedy in the manner known to law.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai.

2.The Assistant Engineer,
Tamil nadu Electricity Board,
Office of the Assistant Engineer,
Moovarasanpet, Keezhkattalai,
Chennai 600 117.

+1cc to Mr.L.Jaivenkatesh, Advocate, S.R.No.451
+1cc to Mr.D.Rajagopal, Advocate, S.R.No.382
+1cc to Ms.S.Anuradha Balaji, Advocate, S.R.No.154

W.P.No.14495 of 2020

UM(CO)
CB(04/02/2022)