

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.15365 OF 2020

AND

WMP NO.19222 OF 2020

R.Vijayalakshmi

...Petitioner

Versus

- 1.The Chairman/CGRF,
CEDC/Central, TANGEDCO,
Valluvarkottam, Chennai-600034.
- 2.The Superintending Engineer,
CEDC/Central, TANGEDCO,
Valluvarkottam, Chennai-600034.
- 3.The Assistant Engineer,
(Operation and Maintenance),
TANGEDCO, Mylapore East,
Chennai-600004.

4.Mrs.Rajalakshmi

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandams to call for the records connected with the order passed in Petition No.78/A of 2020 dated 10.09.2020 (signed on 09.10.2020) passed by the first respondent and quash the same and consequently direct the respondents 2 and 3 not to disconnect the electric service connection in Number 124-016-519 in the name of the petitioner.

For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.L.Jai Venkatesh
For R.1 to R.3

Mr.R.Sreedhar for R.4

ORDER

This writ petition has been filed challenging the impugned order dated 10.09.2020 passed by the first respondent ordering

for disconnection of the petitioner's electricity service connection at Door Nos.26, 27, 2nd Street, Meenambalpuram, Dr.Ambedkar Pallam, Mylapore, Chennai-600004.

2. The petitioner has challenged the impugned order on the ground that though she is in possession and enjoyment of the property, the first respondent has arbitrarily and illegally ordered for disconnection of the petitioner's electricity connection.

3. However, it is the contention of the learned counsel for the fourth respondent, who is the sister's daughter of the petitioner that the petitioner is in illegal possession of Door No.26 of the subject property. After the death of A.Gopal, the property was allotted to fourth respondent's mother during her life time. As seen from the impugned order, the petitioner has not produced documentary evidence to substantiate her claim that she is in possession of Door No.26, which according to the fourth respondent, was allotted to the fourth respondent's mother. The reasons given by the first respondent for disconnecting the petitioner's electricity connection are as follows:

- a) the petitioner has not provided any valid document in connection with ownership despite being given enough opportunity;
- b) the first respondent has also upheld the findings given earlier in its previous order No.78 dated 13.02.2020.

4. The petitioner in the writ petition has contended that a Will was executed in her favour by her father Gopal on 04.08.2013 in respect of both the door numbers viz., 26 and 27 and that, she has already filed an application seeking for probate of the said Will before this Court. According to the petitioner, though she has produced copy of Aadhar Card, copy of Family Card, copy of Voter ID and a copy of bank passbook, the first respondent has arbitrarily and illegally ordered for disconnection of the petitioner's electricity service connection. However, it is submitted by the fourth respondent that based on fake documents, the petitioner had applied for electricity service connection.

5. However, it is brought to the notice of this Court by the learned counsel for the fourth respondent that till today, no original petition has been filed seeking for probate of the Will dated 04.08.2013 by the petitioner. The said Will is alleged to have been executed by the petitioner's father A. Gopal. According to the petitioner, as per the said Will, the petitioner has been allotted both the door numbers viz., door nos.26 and 27.

6. Learned counsel for the petitioner has also fairly conceded that till today, original petition has not been numbered even though in the affidavit, filed in support of the writ petition, the petitioner had contended that original petition was filed by her seeking for probate of the Will dated 04.08.2013. He would submit that the petitioner had earlier filed original petition which was returned for certain compliance and thereafter, it has been represented only today. No proof has been placed before this Court by the petitioner to show that original petition was filed earlier and was returned by the Registry and was represented subsequently.

7. Learned counsel for the fourth respondent would submit that no original petition was filed seeking for probate before this Court as pleaded in the affidavit filed in support of the writ petition by the petitioner. He further submits that the petitioner has approached this Court by suppression of material facts and has not approached this Court with clean hands. He would also submit that the alleged Will dated 04.08.2013 is a bogus one and no such Will was executed in favour of the petitioner by A.Gopal as claimed by her in this writ petition.

8. According to the learned counsel for the fourth respondent. The first respondent has rightly ordered for disconnection of the electricity service connection standing in the name of the petitioner. As seen from the above contentions, this Court is of the considered view that there are disputed questions of facts involved. The petitioner has also not produced any title document to claim ownership/possession of the property. She has produced only copy of Aadhar card, copy of Family Card, copy of Voters ID and a copy of bank pass book to claim possession of the property. According to the fourth respondent, the petitioner has taken illegal possession of the property from her.

9. Admittedly, Mr.A.Gopal, the father of the petitioner and grand father of the fourth respondent are no more. The petitioner claims that she is in possession of Door Nos.26 and 27, whereas, the fourth respondent claims that she is entitled to door no.26 and that the petitioner has taken illegal possession of door number 26 from her. From the documents available on record, this Court cannot come to a categorical conclusion as to who is in possession of the respective property. The petitioner has also not obtained probate of the alleged Will dated 04.08.2013 executed by A.Gopal. The said Will is disputed by the fourth respondent, as according to her, it is a bogus document.

10. All the above mentioned facts cannot be decided by this Court in a writ petition, under Article 226 of the Constitution of India as the issues raised by the respective parties requires

oral and documentary evidence for adjudication. The first respondent has rightly ordered for disconnection of electricity service connection standing in the name of the petitioner on the ground that the documents have not been produced by the petitioner to substantiate her claim that she is in possession of the property and is entitled for electricity service connection. Unless and until a civil court having competent jurisdiction adjudicates the dispute between the parties and comes to a conclusion as to who is in possession of the same, the first respondent cannot grant electricity service connection to the petitioner and therefore, this Court is of the considered view that the first respondent has rightly ordered for disconnection of the petitioner's electricity service connection.

11. This court does not find any merit in the writ petition and the writ petition is dismissed. However, liberty is granted to the petitioner to agitate her rights before a competent civil court in the manner known to her under law. The civil court shall adjudicate the dispute between the parties uninfluenced by any of the observations made by this Court in this order.

12. Since the petitioner was having the benefit of interim stay of the impugned order from 2020 onwards, the interim stay granted by this Court shall continue for a period of four weeks from today to enable the petitioner to approach the competent civil court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

sr

To

1.The Chairman/CGRF,
CEDC/Central, TANGEDCO,
Valluvarkottam,
Chennai-600034.

2.The Superintending Engineer,
CEDC/Central, TANGEDCO,
Valluvarkottam,
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3.The Assistant Engineer,
(Operation and Maintenance),
TANGEDCO, Mylapore East,
Chennai-600004.

+1cc to Mr.S.Ilamvaludhi, Advocate Sr.No.42720

+1cc to Mr.R.Sreedhar, Advocate Sr.No.42616

W.P.No.15365 of 2020

PA(CO)
RVM(19/07/2022)