



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2022

CORAM

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

W.P.No.24774 of 2014

and

M.P.No.1 of 2014

K.Chinnaraj

Vs.

... Petitioner

1. The Executive Engineer,
(Operation & Maintenance),
TANGEDCO, Omalur Post & Taluk,
Salem District - 636 455.
2. The Assistant Engineer (O & M),
TANGEDCO,
Thumbipadi Sub Station,
Chikkanampatty Post,
Omalur Taluk, Salem District,
Pin.636 309.
3. The Junior Engineer (O & M),
TANGEDCO,
Thumbipadi, Pannapatti Post,
Omalur Taluk, Salem District,
Pin : 636 305.

4. Palanivelu

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from in any way shifting the service connection No.520 from the common well in S.No.144/1B, Thumbipadi Village, Omalur Taluk, Salem District, to any other place including the 4th respondent's separate well situated in S.No.144/1C, Thumbipadi Village, Omalur Taluk, Salem District.

For Petitioner : Mr.P.Jagadeesan

For R1 to R3 : Mr.M.Abdul Kalam
Standing Counsel (TNEB)

For R4 : Mrs.R.Meenal



O R D E R

The petitioner has come forward with this writ petition for issuance of a Writ of Mandamus forbearing the respondents from in any way shifting the service connection No.520 from the common well in S.No.144/1B, Thumbipadi Village, Omalur Taluk, Salem District, to any other place including the 4th respondent's separate well situated in S.No.144/1C.

2. The petitioner and the fourth respondent are the sons of Late Vaithi Gounder of Peria Nagahur, Sarakkapillaiyur Post in Omalur Taluk, Salem District. It appears that his another son viz., Muthulingam passed away, leaving behind his sons Balasubramaniam and Sivashankar. It is the case of the petitioner that the family properties were partitioned in the year 1998 and the same was registered on 13.07.1998. Thereafter, the fourth respondent purchased, on his own, the land measuring an extent of 1.39 1/2 acres in S.No.144/1C in the year 2011 with half share in the common well. The petitioner is said to have purchased 69 cents in S.No.144/1A of Thumbipadi Village along with 1/4th share in a common well in S.No.144/1B. It is also stated that sons of his deceased brother Muthulingam purchased another 69 cents in the same Survey Number with 1/4th share in the well situated in S.No.144/1B.

3. The further case of the petitioner is that a service connection to the well in S.No.144/1B was jointly obtained by the co-owners, however, in the name of the fourth respondent, as, he being the elder in the family, but the service connection is being used by all the co-sharers. Whiles, the fourth respondent has filed a suit in O.S.No.79 of 2011 before the Sub Court, Mettur against the petitioner and others for declaration claiming exclusive rights in the service connection and the suit is being contested by the petitioner.

4. The learned counsel for the petitioner Mr.P.Jagadeesan would argue that when the right over the service connection is sub-judiced in O.S.No.79 of 2011 and the service connection was obtained in the name of the fourth respondent, for which, the sharers shared the expenses, however, an attempt was made by the fourth respondent to transfer the service connection No.520 to his well dug in S.No.144/1C and hence, the Writ Petition.

5. In the counter filed by the third respondent, it has been stated that the service connection No.140-010-520 in Tariff-IV was given to the fourth respondent on the basis of his application dated 23.06.2005 for agricultural purpose for the well situated in S.No.144/1B. The petitioner and other sharers are asking share from the fourth respondent, but at present, the said service connection is not used by any one. It is also



stated that the fourth respondent did not give any application for shifting the service connection No.520.

6. In the counter filed by the fourth respondent, it has been stated that this Writ Petition has been filed to harass him and there is no truth in the allegations made by the petitioner. According to him, he has not made any attempt to shift the service connection No.520 from S.No.144/1B to his separate well in S.No.144/1C. On the other hand, he has applied for a separate service connection to his well in S.No.144/1C. He denied the allegations that the petitioner and other sharers have shared the expenses for obtaining service connection in Service No.520 and at the instance of the writ petitioner, the service connection was disconnected in the year 2011.

7. Mr.M.Abul Kalam, learned Standing Counsel for the respondents 1 to 3 and Ms.R.Meenal, learned counsel appearing for the fourth respondent submitted that the private respondents did not apply for transfer of service connection No.520, as alleged by the petitioner and it is also contended that this Writ Petition has been filed with an ulterior motive.

8. Heard the rival submissions and perused the materials available on record.

9. This Writ Petition has been filed on the allegation that the fourth respondent is attempting to transfer the service connection provided to the common well in S.No.144/1B to his separate well situated in S.No.144/1C. No document was produced by the petitioner to substantiate the same, except bald allegations in the affidavit filed in support of the Writ Petition. On the other hand, the respondents in their counter have clearly stated that, so far, the fourth respondent has not applied for transfer of service connection to his separate well.

10. In the light of the above, I find no merit in the Writ Petition and hence, the Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer,
(Operation & Maintenance),
TANGEDCO, Omalur Post & Taluk,
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Omalur Taluk, Salem District,
Pin : 636 305.

+1cc to Mr.P.Jagadeesan, Advocate, S.R.No.28753

+1cc to Mrs.R.Meenal, Advocate, S.R.No.28854

W.P.No.24774 of 2014

PA(CO)
CT 26/05/2022