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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.25198 of 2014 &
M.P.No.1 of 2014

V.Ramakrishnan

...Petitioner

Vs.

1.The Assistant Engineer,
Operation and Maintenance,
TANGEDCO,
A.Gopinathampatti,
Dharmapuri District.

2.The Superintendent Engineer,
TANGEDCO,
Dharmapuri, Dharmapuri District.

3.Kasi Chettiar

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records pertaining to the first respondent's proceeding Ka.En.Upo/E & Pa/Gonaptti / G.O.15/A133/14.15 dated 08.08.2014, quash the same and direct the first respondent not to proceed with providing a electricity service connection to the third respondent's well situate at S.No.70/4, Parayappatti Village, Pappireddypatty Taluk, Dharmapuri District.

For Petitioner : Mr.R.Chellamuthu

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel

ORDER

The prayer in the Writ Petition is to set aside the order of the first respondent dated 08.08.2014 in his proceedings in Ka.En.Upo/E & Pa/Gonaptti / G.O.15/A133/14.15 , and direct the



first respondent not to proceed with providing electricity service connection to the third respondent's well situate at S.No.70/4, Parayappatti Village, Pappireddypatty Taluk, Dharmapuri District.

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2. The petitioner would claim that he became owner of the properties / lands in S.Nos.70/8A, 71/5B vide sale deed dated 16.04.1992 and S.Nos.70/8B, 71/5A through registered sale deed dated 24.12.2004 and in S.No.71/5C through sale deed dated 12.11.2012 and he has been in possession and enjoyment of the same. It is his further case that a public cart track is running through S.No.70/4, which is the only access to the property of the petitioner's land in S.No.70/8B. The said cart track lies east-west 15 feet and south-north 35 feet.

3. The further case of the petitioner is that the third respondent owns agricultural land in S.No.70/4, which lies on the eastern side of the public pathway. During 2013, the third respondent dug a well abutting western side of the pathway and obstructed the public pathway by dumping mud and attempted to encroach and occupy the public pathway. Hence, the suit in O.S.No.106 of 2013 was filed before the District Munsif cum Judicial Magistrate Court, Pappireddypatti for declaration and permanent injunction against the third respondent and an exparte order was passed on 30.04.2014. Despite the same, the third respondent attempted to obtain service connection in his well, but without considering the valid objection of the petitioner, the impugned order came to be passed.

4. The learned Standing Counsel appearing for the respondents would state that the suit relates to the property in S.No.70/1 and there was no order in the suit in respect of S.No.70/4 and hence, the objection of the petitioner was rejected and a service connection was given to the well dug by the third respondent in S.No.70/4.

5. In the matter on hand, since the service connection was already effected in the well dug by the third respondent in S.No.70/4, if there is any obstruction in the public pathway preventing the access to the petitioner, he can very well approach the civil Court for removal of the obstruction based on the Decree passed in O.S.No.106 of 2013 by the District Munsif-cum-Judicial Magistrate, Pappireddypatti.



6. With the above observation, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

r n s
To

1.The Assistant Engineer,
Operation and Maintenance,
TANGEDCO,
A.Gopinathampatti,
Dharmapuri District.

2.The Superintendent Engineer,
TANGEDCO,
Dharmapuri,
Dharmapuri District.

+1cc to Mr.L.Jaivenkatesh, Advocate Sr.21983

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sra[col]
srg 20/04/2022