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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.28078 OF 2021 &
W.M.P.NOS.29645 OF 2021 &
W.M.P.NO.8541 OF 2022

E.Vishal

...Petitioner

Vs.

- 1.The Chairman cum Managing Director,
TANGEDCO, 5th floor, Eastern wing
NPKRR Maaligai 144 Anna salai,
Chennai-600 002
- 2.The Chief Engineer (Chennai South),
TANGEDCO 2nd floor Eastern wing
NPKRR Maaligai, 144 Anna salai,
Chennai-600 002
- 3.The Divisional Engineer
TANGEDCO, TamilNadu Electricity Board
50 Ramasamy salai Sector-2 KK Nagar
Chennai- 600 078
- 4.The Assistant Engineer
TANGEDCO Tamil Nadu Electricity Board,
50, Ramasamy salai Sector 2 KK Nagar,
Chennai- 600 078

5.K.M.Vishnu Vardhan

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for writ of Mandamus directing the respondents 1 to 4 herein to provide new electricity service connection to the petitioner's property bearing Old Survey No.114/1 and New Survey No.5/1, Thiruvalluvar 1st Street, Nesapakkam, Chennai - 600 078 in the name of the petitioner.

For Petitioner : Mr.C.Kasirajan

For Respondents
1 to 4 : Mr.L.Jaivenkatesh,
Standing Counsel



ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondents 1 to 4 to provide new electricity service connection to the petitioner's property bearing Old Survey No.114/1, New Survey No.5/1, Thiruvalluvar 1st Street, Nesapakkam, Chennai - 600 078.

2. The petitioner claims that he purchased the property from the fifth respondent under a sale deed dated 19.03.2019. According to the petitioner, after the purchase, he has been regularly paying the electricity charges to the respondents 1 to 4 without committing any default. According to the petitioner, he has demolished the building and is in the process of putting up new construction and hence, he has applied for new electricity service connection in his name. However, the said application has not been considered by the respondents 1 to 4 till date on the ground that the fifth respondent who is the vendor of the petitioner is in arrears of electricity charges payable to the respondents 1 to 4 amounting to Rs.30,04,170/-. According to the petitioner, he is not liable to pay the said charges. The petitioner has also produced before this Court a letter sent by his vendor to the respondents 1 to 4 undertaking to pay the outstanding dues. It is also the case of the petitioner that he is a bonafide purchaser as he was not aware of the outstanding dues payable by the vendor at the time of purchase of the subject property. In such circumstances, the petitioner has filed this writ petition.

3. Heard Mr.C.Kasirajan, learned counsel for the petitioner and Mr.L.Jaivenkatesh, learned Standing Counsel appearing for the respondents 1 to 4.

4. Learned counsel for the petitioner would rely upon the judgment of the Hon'ble Supreme Court in the case of Paschimanchal Vidyut Vitran Nigam Ltd & Others vs. M/s.DVS Steels & Alloys Pvt. Ltd. & Others reported in CDJ 2008 SC 1866 and in particular, he referred to paragraph 9 of the said judgment. The relevant portion of the said judgment is extracted hereunder:

" 9. A purchaser of a premises, cannot be foisted with the electricity dues of any previous occupant, merely because he happens to be the current owner of the premises. The supplier can therefore neither file a suit nor initiate revenue recovery proceedings against a purchaser of a premises for the outstanding electricity dues of the vendor of the premises, in the absence of any contract to the contrary."



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5. Learned counsel for the petitioner would also rely upon the judgment of the Jharkhand High Court in the case of Binay Prakash vs. Jharkhand State Electricity Board and others dated 11.02.2009 which has followed the aforementioned decision of the Hon'ble Supreme Court.

6. Learned Standing Counsel appearing for the respondents 1 to 4 would rely upon Regulation No.17 clause 9A of the Tamil Nadu Electricity Supply Code and would submit that new electricity service connection can be granted only if the previous outstanding dues are paid. The said statement is recorded.

7. However, this court is of the considered view that no prejudice would be caused to the respondents if the petitioner's application seeking for new electricity service connection is considered on merits and in accordance with law after affording a fair hearing to the petitioner and also considering the judgments relied upon by the learned counsel for the petitioner which has been referred to supra.

8. For the foregoing reasons, this Court directs the fourth respondent to give due consideration to the documents filed by the petitioner as well as the judgments referred to supra and pass final orders on the petitioner's application dated 28.09.2021 seeking for a new electricity service connection in his name for his property bearing Old Survey No.114/1 and New Survey No.5/1, Thiruvalluvar 1st Street, Nesapakkam, Chennai - 600 078 within a period of eight weeks from the date of receipt of a copy of this order after affording a fair hearing to the petitioner including granting him a right of personal hearing.

9. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1.The Chairman cum Managing Director,
TANGEDCO, 5th floor, Eastern wing
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Chennai-600 002



2.The Chief Engineer (Chennai South),
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3.The Divisional Engineer
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Chennai- 600 078

4.The Assistant Engineer
TANGEDCO, Tamil Nadu Electricity Board,
50, Ramasamy Salai, Sector 2 KK Nagar,
Chennai- 600 078

+1cc to Mr.C.Kasirajan, Advocate Sr.No.36777

+1cc to Mr.L.Jaivenkatesh, Advocate Sr.No.36891

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W.M.P.NOS.29645 OF 2021 &
W.M.P.NO.8541 OF 2022

SR(CO)
RVM(30/06/2022)