



W.A.No.123 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.A.No.123 of 2020

S.Krishnadevi

...Appellant

Vs.

1.The Chairman,
TANGEDCO,
Aanna Salai,
Chennai – 600 002.

2.The Additional Divisional Engineer,
Operation & Maintenance,
TANGEDCO, Maduravoyal South,
No.39, Alapakkam Road,
Chennai – 600 116.

3.The Assistant Engineer,
Operation & Maintenance,
TANGEDCO, Maduravoyal South,
No.39, Alapakkam Road,
Chennai – 600 116.

4.D.Nagarajan

...Respondents



W.A.No.123 of 2020

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 08.07.2019 made in W.P.No.19247 of 2019 and allow the writ petition filed by the petitioner.

For Appellant : Mr.S.Ganesh

For Respondents : Ms.V.Revathy,
for Mr.L.Jai Venkatesh,
Standing Counsel for R1 to R3

R4 – No appearance

J U D G M E N T

(Judgment was made by **R.SUBRAMANIAN, J.**)

The petitioner is aggrieved by the dismissal of the writ petition filed by her challenging the letter of the 3rd respondent dated 20.02.2019 and for consequential mandamus to dis-connect the electricity supply granted to the 4th respondent.

2. Claiming that the 4th respondent has encroached upon the property of the petitioner and had obtained electricity service connection for the encroached portion with the help of the forged documents, the petitioner



W.A.No.123 of 2020

applied to the 3rd respondent seeking dis-connection. The 3rd respondent rejected the request of the petitioner stating that since the 4th respondent has been paying electricity charges regularly, the dis-connection sought for cannot be effected. It is this communication that was challenged by the petitioner in the writ petition.

3. The writ Court found that there is a dispute regarding title to the property and the petitioner has already approached the civil Court in O.S.No.424 of 2012 seeking permanent injunction against the 4th respondent. Therefore, the writ Court thought it fit not to exercise the jurisdiction under Article 226 of the Constitution of India and left the issue open to be decided by the civil Court.

4. We have heard Mr.S.Ganesh, learned counsel appearing for the appellant and Ms.V.Revathy, learned counsel for Mr.L.Jai Venkatesh, learned Standing Counsel for the respondents 1 to 3. The 4th respondent though served is not appearing either in person or through counsel duly instructed.



W.A.No.123 of 2020

5. Mr.S.Ganesh, learned counsel appearing for the appellant would vehemently contend that the writ Court was not right in concluding that the title to the property is in dispute when the suit in O.S.No.424 of 2012 was only for injunction. He would also point out that the 3rd respondent did not afford an opportunity to the petitioner before rejecting the claim for dis-connection.

6. We are unable to accept the submissions of the learned counsel for the appellant. As regards the first contention regarding nature of the suit, though the suit is one for injunction, the writ Court has found that title to the property is in dispute, since both the parties are claiming title to the property. It is now stated that the suit has also been dismissed. Therefore, we do not think this is a fit case to interfere with the order of the writ Court dismissing the writ petition and referring the parties to the civil Court.

7. As regards the second contention of the learned counsel, we cannot fault the 3rd respondent for rejecting the claim of the petitioner. When once the title is in dispute and a civil suit is pending, the Assistant



W.A.No.123 of 2020

Engineer of TANGEDCO cannot decide on the title to the property. The TANGEDCO has given service connection on the basis of certain materials that were placed before it. If the Appellant claims that those documents are forged documents, it is for the petitioner to establish the same in the competent Court of law. She cannot require the Assistant Engineer of TANGEDCO to decide the validity of the instruments or documents produced by the petitioner while seeking service connection. We also feel that it will be dangerous to entrust the said power with the Assistant Engineer of TANGEDCO.

8. Therefore, the writ appeal fails and it is accordingly **dismissed**.

It will be however open to the Appellant to establish her title, if she is so advised, in appropriate forum. No costs.

(R.S.M., J.) (K.B., J.)
03.11.2022

dsa
Internet :No
Index :Yes
Speaking order



W.A.No.123 of 2020

To

WEB COPY

- 1.The Chairman,
TANGEDCO,
Anna Salai,
Chennai – 600 002.
- 2.The Additional Divisional Engineer,
Operation & Maintenance,
TANGEDCO, Maduravoyal South,
No.39, Alapakkam Road,
Chennai – 600 116.
- 3.The Assistant Engineer,
Operation & Maintenance,
TANGEDCO, Maduravoyal South,
No.39, Alapakkam Road,
Chennai – 600 116.



WEB COPY



W.A.No.123 of 2020

R.SUBRAMANIAN, J.
and
K.KUMARESH BABU, J.

dsa

W.A.No.123 of 2020

03.11.2022