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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.28909 of 2017

and

W.M.P.No.31129 of 2017

M.G.Mohan,
S/o. Gangaiah Naidu

... Petitioner

Vs.

1. Tamil Nadu Electricity Board,
rep. by its Chairman and Managing
Director, Anna Salai,
Chennai-600 002.
2. The Tamil Nadu Generation and
Distribution Corporation Ltd.,
rep. by its Chairman cum Managing
Director, 10th Floor,
NPKRR Maaligai,
144, Anna Salai,
Chennai-600 002.
3. The Assistant Engineer,
Operation and Maintenance,
Ramapuram Division,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle,
Chennai South, Chennai-600 089.
4. Mr.M.G.Venkatesan,
S/o. Gangaiah Naidu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the 3rd respondent from transferring and disconnecting the Electricity Service connections bearing Nos. a) 09.270.014.951, b) 09.270.014.952, c) 09.270.014.1324 and d) 09.270.014.1331 from the name of petitioner in respect of property bearing Door Nos.3/4B, 3/4C - Sri Gangaiah Naidu Industrial Avenue, Valluvar Salai, Ramapuram, Chennai-600 089 except due process of law.



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For Petitioner : Mr.R.Bharath Kumar
For Respondents : Mr.L.Jai Venkatesan,
Standing Counsel for R1 to R3
Mr.M.Sunilkumar for R4

O R D E R

This Writ Petition has been filed forbearing the 3rd respondent Assistant Engineer, TANGEDCO from transferring the service connection bearing Nos. Electricity Service connections bearing Nos. a) 09.270.014.951, b) 09.270.014.952, c) 09.270.014.1324 and d) 09.270.014.1331 stands in the name of petitioner except due process of law.

2. The grievance of the petitioner is that, the petitioner is the owner of property consisting basement, ground and first floor and he has also obtained electricity service connection in his name. The 4th respondent, who is none other than brother of petitioner claiming right over the property, earlier, has filed a suit for permanent injunction restraining the petitioner and his tenant from interfering with his property. He has also filed another suit transferring the property tax assessment in favour of 4th respondent and the same is still pending. The suit filed by the 4th respondent seeking for permanent injunction was dismissed. Thereafter, according to the petitioner, the 4th respondent approached the 3rd respondent to transfer the electricity service connection in his name. Alleging that, the 3rd respondent is taking steps to transfer the service connection in favour of 4th respondent, the present Writ Petition has been filed.

3. Mr.R.Bharath Kumar, learned counsel appearing for petitioner would submit that, he is owner of the property and as per registered partition deed, entire property was given to the petitioner. Even though the landed property was given to the 4th respondent, the petitioner has only constructed entire building after obtaining planning permission and also obtained service connection, Now stating that the petitioner is only owner of the land, the 4th respondent cannot claim ownership of the superstructure and thereby seeking transfer of service connection in his name. He would also submit that, the petitioner tenant viz., State Bank of India has also filed a suit against the 4th respondent and the same is also pending.

4. Mr.M.Sunilkumar, learned counsel appearing for 4th respondent would submit that, admittedly, as per the registered partition deed between the parties, the property was allotted in his favour and thereafter, the petitioner fraudulently obtained



service connection in his name. In the said circumstances, he has approached 3rd respondent seeking transfer of service connection.

5. Mr.L.Jai Venkatesh, learned standing counsel appearing for respondents 1 to 3 would submit that, since there is a title dispute between the petitioner and the 4th respondent, they are not in a position to decide the title. In the said circumstances, they are not in a position to transfer the service connection in favour of petitioner.

6. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.

7. Admittedly, there is a dispute between the petitioner and 4th respondent over property. As on today, the service connection stands in the name of petitioner and a civil suit is also pending between the parties. Until the civil court gives a finding regarding ownership of the property, the respondents 1 to 3 are not in a position to transfer service connection in favour of 4th respondent. If at all, the 4th respondent is get a decree in his favour, it is open to him to approach the 3rd respondent seeking for service connection in his name. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing
Director,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.
2. The Chairman cum Managing
Director, Tamil Nadu Generation and
Distribution Corporation Ltd.,
10th Floor, NPKRR Maaligai,
144, Anna Salai, Chennai-600 002.



3. The Assistant Engineer,
Operation and Maintenance,
Ramapuram Division,
Tamil Nadu Electricity Board,
Chennai Electricity Distribution Circle,
Chennai South, Chennai-600 089.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.21323
+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.20552
+2cc to Mr.M.Sunil Kumar, Advocate, S.R.No.21418 (20/06/2022)

W.P.No.28909 of 2017

SR(CO)
SB(23/05/2022)