

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.26815 OF 2018
AND
W.M.P.NO.31171 OF 2018

S.K.Shamugam,
Prop. Sree Venkatesa Packaging Industries,
No.6-C, Police Lane,
Alandur Road, Saidapet,
Chennai - 600 015.

... Petitioner

.Vs.

1. The Assistant Engineer,
TANGEDCO, Saidapet East,
TNEB, Thandunter Nagar,
Saidapet, Chennai - 15.
2. The Executive Engineer,
TANGEDCO, O & M/T.Nagar,
Chennai Electricity Distribution
Circle (CEDC) Central,
Nungambakkam, Chennai - 34.
3. C.Venkat,
S/o.Chitti Babu

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to give separate electricity connection in favour of the petitioner at Door No.6-C, Police Lane, Alandur Road, Saidapet, Chennai - 15.

For Petitioner : Mr.T.Mohan
For Mr.R.Mubarak Basha

For Respondents : Mr.L.Jai Venkatesh
Standing Counsel
For R1 & R2

Mr.P.Parthipan for R3

O R D E R

This Writ Petition has been filed seeking a direction directing the respondents 1 and 2 to give separate electricity connection to the petitioner's property situated at Door No.6-C, Police Lane, Alandur Road, Saidapet, Chennai-600 015.

2. The grievance of the petitioner is that, the petitioner is a tenant under the 3rd respondent. Originally, a vacant site was leased out to the petitioner and thereafter, the petitioner has put up superstructure therein. For that, the petitioner has sought for electricity connection, that application was not considered by the respondents 1 and 2. Hence, the present Writ Petition has been filed.

3. Mr.T.Mohan, learned counsel appearing for petitioner would submit that, the petitioner is a statutory tenant under the 3rd respondent. Already, the 3rd respondent has approached the Rent Control Authority and filed an eviction petition, that has been dismissed on the ground that the eviction proceedings is not maintainable before the Rent Controller. Thereafter, the 3rd respondent has filed an ejectment suit in O.S. No.1527 of ***2022** on the file of XII Asst. City Civil Court, Chennai and the suit is still pending. It is an admitted fact that, the petitioner is a statutory tenant, he is entitled to get electricity service connection on execution of indemnity bond, under Clause 27(4) of Tamil Nadu Electricity Distribution Code, and the petitioner is ready and willing to execute the indemnity bond. Despite the same, the respondents 1 and 2 are not granting service connection to the petitioner.

4. Mr.P.Parthipan, learned counsel appearing for 3rd respondent would vehemently content that, even though a lease agreement has been entered between the petitioner and the 3rd respondent, and now the lease period is over, the petitioner is refusing to vacate the premises. Hence, he has approached the civil court and the suit is still pending. In the said circumstances, as there is a dispute between the petitioner and 3rd respondent, the service connection cannot be granted to the petitioner.

5. The learned Standing Counsel appearing for respondents 1 and 2, on instructions, would submit that, to get the service connection, under clause 27 (4) of Tamil Nadu Electricity Distribution Code, the petitioner should produce sufficient proof that he is a tenant under the 3rd respondent. Since no proof has been submitted to that effect, the respondents 1 and 2 are not in a position to effect the service connection to the petitioner.

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

7. It is an admitted fact that, the petitioner is a tenant under the 3rd respondent and now, the eviction suit is also pending before the competent civil court. In the said circumstances, as per clause 27(4) Tamil Nadu Electricity Distribution Code, in the event of applicant produce proof that, he is a lawful occupant of the premises and also executing indemnity bond in ***Form-6** of Annexure III of Tamil Nadu Electricity Distribution Code, the service connection can be effected on complying with other conditions. In the above circumstances, now the petitioner is continuing to be in possession as a statutory tenant and it is also evident from the fact that, the eviction suit is pending against him, in the event of petitioner executing indemnity bond and comply with other conditions as contemplated under clause 27(4) of Tamil Nadu Electricity Distribution Code, the respondents 1 and 2 cannot refuse to give service connection. Accordingly, this Writ Petition is allowed and the respondents 1 and 2 are directed to give service connection to the petitioner after obtaining indemnity bond in ***Form-6** of Annexure III of Tamil Nadu Electricity Distribution Code and also other security deposit as contemplated in the said Distribution Code within a period of ***Eight weeks from 25/04/2022** from the date of receipt of copy of this order. However, it is also made it clear that this order will not stand in the way of 3rd respondent in prosecuting the suit against the petitioner. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

31/03/2022

*** Corrected vide Court Order dated
25/04/2022 in W.P.No.26815 of 2018**

Sd/-

Assistant Registrar(CCC)

02/05/2022

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Assistant Engineer,
TANGEDCO, Saidapet East,
TNEB, Thandunter Nagar,
Saidapet, Chennai - 15.
2. The Executive Engineer,
TANGEDCO, O & M/T.Nagar,
Chennai Electricity Distribution
Circle (CEDC) Central,
Nungambakkam, Chennai - 34.

*** To be Substituted
to the Order already
despatched on
04/04/2022**

+1cc to Mr.L.Jai Venkatesh, Advocate, S.R.No.19548
+1cc to Mr.R.Mubarak Basha, Advocate, S.R.No.19954

***+1cc to Mr.G.Mutharasu, Advocate, S.R.No.28199**

W.P.NO.26815 OF 2018

GPL(CO)
PBS/31/03/2022
SR-II(CO)
PBS/02/05/2022