



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 4352 of 2014
and
M.P.No.1 of 2014

Mohammed Jamaludin

...Petitioner

Vs

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai - 600 002.
 2. The Director,
TANGEDCO,
No.144, Anna Salai, Chennai- 600 002.
 3. The Assistant Divisional Engineer,
Chrompet,
Chennai 600 044.
 4. The Area / Assistant Engineer,
CEDC/SOUTH, Chrompet, Chennai 600 044.
 5. Kaniyambadi Abdul Rahim
 6. Dilnaz Jabeen
 7. Udayakumar
 8. Padmanaban
 9. Amutha
- [R7 to R9 impleaded as per order dated 16/07/2014
Made in MP.2/2014 in W.P.No.4352 of 2014]

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 23.12.2013 bearing Lr.No.U.Mi. Po/Chrom/Chennai/Po. No.138/2013 on the file of the 4th respondent and quash the same and consequently direct the respondent 1 to 4 to provide/effect new electricity supply connection to the petitioner's premises at Door No.4 (Plot Nos. 42 & 51), M.G.R. Road, Nagalkeni, comprised in S. No.100 in Pammal Village, Tambaram Taluk, Alandur Fikra, Kancheepuram District.



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For Petitioner : Dr.C.Ravichandran

For Respondents : Mr.L.Jaivenkatesh
for TANGEDCO [R1 to R4]
Mr.AR.L.Sundaresan
Senior Counsel for
M/s.AL.Ganthimathi [R5 to R7]
Not ready in notice [R8 and R9]

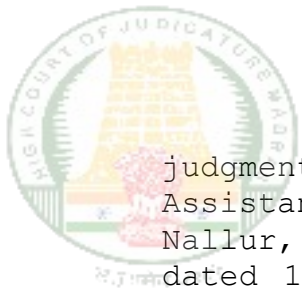
O R D E R

The order impugned dated 23.12.2013 passed by the fourth respondent is under challenge in the present writ petition. Consequential direction is sought for to provide respondents 1 to 4 to provide new electricity supply connection to the petitioner's premises.

2. The petitioner states that he is the absolute owner of the superstructure erected on the vacant land admeasuring 6400sq.ft. comprised in S.No.100, Plot No.42 & 51 in Pammal Village, Tambaram Taluk, Alandur Fikra, Kancheepuram District. The respondents 5 and 6 are the owners of the vacant land. The Petitioner purchased the superstructure from Mr.Padmanaban and Amudha, who were the original lessee in respect of the vacant land under the respondents 5 and 6 . Originally, Mr.Padmanaban and Amudha were running a factory and they availed the loan from the Tamil Nadu Industrial Investment Corporation. The entire loan amount was discharged by the petitioner and the Tamil Nadu Industrial Investment Corporation had handed over the superstructure to the petitioner. The loan was discharged by the petitioner on 10.02.2005 on the understanding between the petitioner and the respondents 5 and 6 that they would sell the land also to the petitioner.

3. The learned counsel for the petitioner made a submission that there is a sale deed regarding the sale of superstructure between the petitioner and the said Mr.Padmanaban and Amudha. Thereafter, a lease deed was executed on 08.02.2005 in respect of the land. Thus, the petitioner is entitled for Electricity Service connection under Clause 27(4) of the Tamil Nadu Electricity Distribution Code 2004. Even, in case of dispute exists between the parties, the Tamil Nadu Electricity Board is bound to provide Electricity service connection as it is an essential service.

4. The learned counsel for the petitioner relied on the



judgment of this Court in the case of Mr.M.Rajendran Versus Assistant Electrical Engineer, Tamil nadu Electricity Board, Nallur, Tiruppur District and another in W.P.No. 66 of 2013 dated 11.02.2013, wherein this Court has granted the relief to provide Electricity service connection even during the existence of dispute between the parties. In yet another case of Mr.K.G.Ravindran Versus Assistant Engineer, Tamil Nadu Electricity Board, Chennai -600 040 in W.P.No. 5021 of 2006, the High Court considered the issue and passed an order on 24.02.2006 that the refusal of concern by the landlord cannot be a ground to deny electricity service connection to the tenant.

5. Relying on the Distribution code and the Judgments, the learned counsel for the petitioner is of an opinion that admittedly, the civil suit is pending between the parties in O.S.No.58 of 2008 on the file of the District Court. Mere pendency of the Civil suit is not a bar for the Electricity Board to provide Electricity service connection in the premises. The petitioner was willing and ready to comply with the conditions to be imposed including execution of an Indemnity bond. Thus, the petitioner is entitled for the service connection as per his application.

6. The learned senior counsel appearing on behalf of the respondents 5 to 7 objected the contentions raised on behalf of the petitioner by stating that Regulation 27 (4) of the Tamil Nadu Electricity Distribution code cannot have any application with reference to the facts and circumstances of the present case. Only in case of lawful occupation, electricity service connection may be provided by the Board even during the existence of dispute between the parties. In the present case, the petitioner is not in occupation and further, not in lawful occupation, if at all he claims. Thus, the relief cannot be granted in the present case.

7. The learned senior counsel is of an opinion that an unregistered sale deed cannot be relied upon for the purpose of providing electricity service connection. This apart, the alleged sale deed was executed only in respect of superstructure, which is disputed by the contesting respondents. Unless the disputes in this aspects are resolved by the competent Civil Court, the possession of the petitioner, which is not admitted, cannot be construed as lawful and therefore, invoking clause 27(4) of the Distribution code would not arise at all.

8. The learned counsel appearing on behalf of the Tamil Nadu



Electricity Board as stated that Board conducting an inspection and found that petitioner as well as the contesting respondents are not in possession of the property in this regard paragraph 4 of the counter affidavit reads as under:

“4. I further state that the writ petitioner submitted an application for a new electricity connection to the petitioner premises and the 4th respondent had inspected the said premises and found that a notice was displayed in the wall of the petition building stating that “2 suits namely bearing suit O.S.No.135/2007, D.M.C. At Alandur and O.S.No.58/2008 in the Court of District Judge at Chengalpattu is pending on the file of the above said Courts with regard to the title to the petition premises and the trespassers will be prosecuted and punished -By Thiru.Mohammed Jamaludin, 9444657860” and the said premises is also locked and nobody was found therein and hence the 4th respondent could not enter into the petitioner premises to inspect so as to proceed the matter further on the basis of the said application submitted by the writ petitioner for getting the electricity connection. I further state that in the above said circumstance the 4th respondent had intimated the writ petitioner by a letter dated 23.12.2013 stating that the electricity service connection cannot be granted in view of the pendency of the proceedings and the same can be considered only on production of the final judgment in the above said cases and returned the said application in the light of the above said litigation before the D.M.C., Alandur, District Judge, Chengalapattu as referred above.”

9. Relying on the said facts, the learned counsel for the Tamil Nadu Electricity Board reiterated that in the absence of establishing lawful possession through documents, the Board will not be in a position to consider the application.

10. Considering the arguments as advanced, this Court is of the considered opinion that clause 27(4) unambiguously states that “An intending consumer who is not the owner of the premises shall produce a consent letter in Form 5 of Annexure III to this code from the owner of the premises for availing the supply. If the owner is not available or refuses to give consent letter, the intending consumer shall produce proof of his/her being in lawful occupation of the premises and also execute an indemnity bond in Form 6 of the Annexure III of this code indemnifying the



licensee against any loss on account of disputes arising out of effecting service connection to the occupant and acceptance to pay security deposit twice the normal rate."

11. Therefore, the provision intends to provide Electricity service connection if the owner of the premises refuses to given consent / No Objection for providing electricity service connection. In the present case, the petitioner claims ownership in respect of superstructure. In respect of land, the petitioner says that the lease deed was executed between the respondents 5 and 6 and the petitioner. There is not clarity in respect of the facts placed and further, the sale deed executed in respect of superstructure is not a registered document. Question arises, whether an unregistered sale deed can be taken into consideration for the purpose of determining the fact, whether the person is in lawful occupation or not. The petitioner himself admits that the respondents 5 and 6 are the owners of the land. This being the complex question of facts and circumstances raised between the parties and admittedly, a civil suit is pending before the competent civil Court of law, the issues are to be resolved for the purpose of considering the application submitted by the petitioner for providing electricity service connection. This Court cannot conduct an inspection in respect of such disputes of civil nature and in the event of any finding, the same would affect the rights of the parties and therefore, the parties are at liberty to adjudicate their civil rights in the case pending before the competent Civil Court of law.

12. The learned senior counsel brought to the notice of this Court that three civil suits are pending between the parties and all suits are to be tried together for the purpose of resolving the disputes between the parties.

13. If at all, the petitioner is of an opinion that the application for providing electricity service connection is to be considered, he is at liberty to approach the competent Court of law in a pending suit for appropriate remedy and which is to be considered after adjudication. However, such complex facts and circumstances raised between the parties cannot be adjudicated before the High Court in a writ proceedings and therefore, the application submitted by the petitioner for providing electricity service connection under clause 27(4) of Tamil Nadu Electricity Distribution Code cannot be considered. It is left open to the petitioner to approach the Civil Court of law for redressal of his grievances in this regard.



14. This being the factum established, the petitioner is not entitled for the relief as such sought for in the present writ petition and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nti/kak

To

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai - 600 002.
2. The Director,
TANGEDCO, No.144, Anna Salai,
Chennai- 600 002.
3. The Assistant Divisional Engineer,
Chrompet, Chennai 600 044.
4. The Area / Assistant Engineer,
CEDC/SOUTH
Chrompet, Chennai 600 044.

+1cc to Dr.C.Ravichandran, Advocate SR.No.24
+1cc to Mr.Al.Ganthimathi, Advocate SR.No.35
+1cc to Mr.L.Jaivenkatesh, Advocate SR.No.447

W.P.No. 4352 of 2014

BR(CO)
GN(25/01/2022)