



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10494 of 2010

K.Arul Jothi

... Petitioner

versus

1. The Executive Engineer,
Tamil Nadu Electricity Board,
Palani,
Dindigul District.

2. The Assistant Electrical Engineer,
Tamil Nadu Electricity Board,
Chathrapatti (West),
Oddanchathiram Taluk,
Dindigul District.

3. V.Samidurai

4. V.Thambidurai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent in க.எண்.உமிபொ/மே/சத்தி/கோ.விவ/அஎண்.493/2009 dated 20.11.2009 and quash the same as arbitrary and illegal and consequently, direct the second respondent to provide the electricity connection to the petitioner.

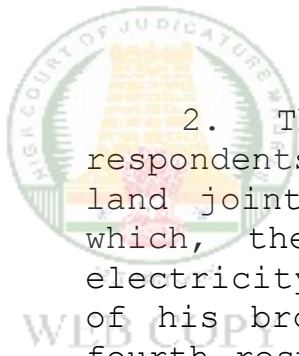
For Petitioner : Mr.S.Karthik

For R1 and R2 : Mr.S.Deenadhayalan

For R3 and R4 : No appearance

ORDER

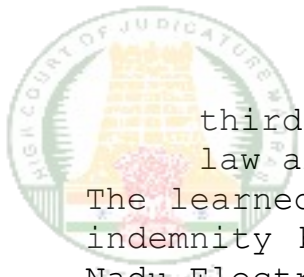
This writ petition is filed as against the order of the second respondent dated 20.11.2009. By the order impugned in this writ petition, the second respondent returned the application to the petitioner for transfer of service connection applied in his father's name to Survey No.17/1B.



2. The petitioner's father and the third and fourth respondents' father are brothers. They have been cultivating the land jointly and there is a common well in Survey No.17/2A, for which, the petitioner's father one Kadavul Gounder applied for electricity service connection on 01.10.1991 after obtaining consent of his brother. Both the petitioner's father and the third and fourth respondents' father died. Now, the petitioner and the third and fourth respondents are not having good terms. In the meantime, the application seeking service connection is also matured on seniority. In order to avoid further clash, the petitioner made a proposal to effect service connection in his individual land in Survey No.17/1B, which was objected by the third and fourth respondents and by referring the objection of the third and fourth respondents, the impugned order came to be passed.

3. The learned counsel for the petitioner submits that even though the well was jointly owned by the petitioner's father and the third and fourth respondent's father, the petitioner's father, only on the consent of the third and fourth respondents's father, applied individually for a service connection for his usage. The application seeking service connection is also matured on seniority. Now, the petitioner is entitled to avail the seniority. In the meantime, a misunderstanding arose between their family members. The petitioner, in order to avoid any further clash, requested the respondent Board to provide the service connection in Survey No.17/1B, which has been rejected, based on the objection of the respondents 3 and 4. The learned counsel for the petitioner further submits that the respondents 3 and 4 have nothing to do with the application applied by the petitioner's father in the year 1991. Therefore, the first respondent is not justified in rejecting the application of the petitioner's father, based on the objection of the respondents 3 and 4. He also relied upon the order passed by this Court in similar case in W.P.(MD)No.492 of 2011, dated 27.04.2011, wherein, it has been held as follows:

"5. It goes without saying that the third respondent cannot have any independent right to object to the grant of service connection so long as the petitioner is eligible to get service connection as per the Tamil Nadu Electricity Board Rules. Further, the only ground raised by the petitioner is that if the service connection is effected to the petitioner, the water level of the petitioner will be depleted. That cannot be a ground at all for effecting the service connection to the petitioner. As every individual farmer will have a right to apply for electricity connection and this factor also has been taken into consideration by the Tamil Nadu Electricity Board in granting the service connection, the



third respondent's plea is not sustainable in the eye of law and liable to be dismissed."

The learned counsel for the petitioner has also agreed to execute an indemnity bond as per the provisions of Clause 27(4) of the Tamil Nadu Electricity Distribution Code.

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4. The learned counsel appearing for respondent Nos.1 and 2 submits that since there is an objection from respondent Nos.3 and 4, the respondents have passed the impugned order and they will abide by the order of this Court.

5. When the matter is called, there is no representation for respondent Nos.3 and 4.

6. This Court considered the rival submissions made.

7. The petitioner's father applied for a service connection in the year 1991 for the well situated in Survey No.17/2A. The well in Survey No.17/2A is jointly owned by the petitioner and respondent Nos.3 and 4. At the time of application, a consent was obtained from the father of respondent Nos.3 and 4. However, it was not applied jointly. The requisition for supply of energy, under the Tamil Nadu Electricity Distribution Code, prescribes certain conditions in Regulation 27(4) as follows:

"27(4) 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 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 to 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."

8. Here, in this case, the application was made by the petitioner's father with the consent of father of respondent Nos.3 and 4 and now, it is ripe for connection. The petitioner, in order to avoid some dispute, intended to shift the service connection to his individual land, which was objected by the respondent Nos.3 and 4. The respondent Nos.3 and 4 have to establish their case before the appropriate Court that the application made by the petitioner's father in the year 1991 is only for the well and not for individual. As on date, the service connection is granted to the application filed by the petitioner's father.



9. In view of the order passed by this Court in W.P.(MD)No.492 of 2011 dated 27.04.2011 (cited supra) and as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, the writ petition is allowed, with a direction to the respondent Board to grant service connection to the petitioner after obtaining indemnity bond in Form 6 of the Annexure III of the Tamil Nadu Electricity Distribution Code. The third and fourth respondents shall establish their case before the competent Civil Court. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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Tamil Nadu Electricity Board,
Palani,
Dindigul District.
2. The Assistant Electrical Engineer,
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+1 CC to M/s.S. KARTHIK, Advocate (SR-20655[F] dated 22/04/2022)

W.P. (MD) No.10494 of 2010
22.04.2022

nsn(CO)
TR(28.05.2022) 4P 4C