



W.P(MD).No.15606 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 29.07.2022

ORDER PRONOUNCED ON : 08.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.15606 of 2012

and

MP(MD).Nos. 1 & 2 of 2012

M.Doss

....Petitioner

Vs

1.The Superintending Engineer
Tamil Nadu Electricity Board
Ramamoorthy Road
Virudhunagar
Virudhunagar District

2.The Divisional Engineer
Tamil Nadu Electricity Board
Operation and Maintenance
Kottaipatti
Srivilliputtur
Virudhunagar District

3.The Assistant Executive Engineer
Virudhunagar -Rural
TANGEDCO
Koddaipatti
Srivilliputtur
Virudhunagar District



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4.The Junior Engineer
Tamil Nadu Electricity Board
Operation and Maintenance
Valayapatti
(via).Krishnan Kovil
Srivilliputtur Taluk, Virudhunagar District

5.K.R.Ramar

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in his Ka.No.Uu.Say.Po./B/Thiru.Ve./Koo.Koodu/Aa.No.615/2011 dated 19.07.2011 quash the same and consequently direct the 3rd and 4th respondents to consider the written representation of the petitioner dated 16.06.2011 sent to the 4th respondent on merits, according to law and to disconnect the electric connection given on 04.04.2011 to the 5th respondent in S.C.No.947 by the order dated 28.02.2011 for his motor pumpset to draw water from the well situated in S.No.976/2A in Villuppanoor Village, Srivilliputtur Taluk.

For Petitioner : Mr.K.Sathiya Singh

For R1 to R4 : Mr.S.Deenadhayalan

Standing Counsel

For R5 : Mr.M.Thirunavukkarasu

ORDER

The present writ petition has been filed challenging an order passed by the third respondent herein under which the request of the writ petitioner for disconnecting the electricity service connection to the agricultural property of the fifth respondent was rejected.

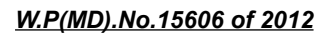


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2. According to the petitioner, an irrigation Well having an extent of 2 ½ cents is located in Survey No.976/2A in Villupanoor Village, Srivilliputhur Taluk, Virudhunagar District. The Survey No.976/2B for an extent of 55 cents is entitled to be irrigated from the said Well. The said 55 cents was originally owned by one Karuppaiah. It devolved upon his two sons namely Ganesh and Ramar who is the fifth respondent herein. Hence, both of them are entitled to 27 ½ cents each.

3. The said Ganesan has executed a registered sale deed in favour of one Perumal on 10.02.1999 with regard to the share of 27 ½ cents. The legal heirs of the said Perumal have executed a registered sale deed in favour of the petitioner on 28.02.2007. Hence, the petitioner is entitled to the said 27 ½ cents along with 5/6th share in the suit Well.

4. According to the petitioner, his vendor had some other properties for which he had an electricity service connection in the same Well from the year 1990 onwards. At the time of purchase, the right in the said Well and the motor pumpset was also conveyed to him. The fifth respondent herein being one of the co-sharers of the vendor of the petitioner is entitled to only 27 ½ cents. On the other hand, the petitioner is having more than 50 cents.



(e).The service connection to the fifth respondent has been given by erecting an electricity pole in the property of the petitioner. The cable line has also been drawn under the lands of the writ petitioner posing danger to the life of the petitioner and his family members.



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6.The petitioner had given a representation to the third respondent herein to cancel the service connection effected to the fifth respondent. However, the third respondent had rejected the said application on the ground that only after verification of all the records, the service connection has been effected. The third respondent has further stated in the impugned order that they will have to await for the result of the suit in O.S.No.26 of 2011. This order is under challenge in the present writ petition.

7.Per contra, the learned counsel for the private respondent has contended that the suit in O.S.No.26 of 2011 not only filed for the relief of partition but also to declare the sale deed executed by the Ganesan in favour of the Perumal is invalid and the consequential sale deed executed by the legal heirs of Perumal in favour of the writ petitioner is null and void. According to the learned counsel for the fifth respondent, the said suit was decreed on 10.11.2017. Hence, the claim of the petitioner that he has purchased the share from the said Ganesan is not legally sustainable. The petitioner has no locustandi whatsoever to challenge the service connection effected in favour of the fifth respondent.

8.The learned Standing Counsel appearing for the electricity board contended that the service connection is still alive and only after verification



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of all the records, the service connection has been effected to the fifth respondent herein. Hence, he prayed for dismissal of the writ petition.

9.I have considered the submissions made on either side and perused the materials available on records.

10.The writ petitioner wants to disconnect the agricultural service connection given in favour of the fifth respondent to draw water from a Well located in Survey No.976/2A. According to the petitioner, he has purchased 5/6th share in the said Well from the legal heirs of one Perumal under a sale deed dated 28.02.2007. The said Perumal is said to have purchased the share in the Well from one Ganesh by a sale deed dated 10.02.1999. The said Ganesan is none other than the brother of the fifth respondent herein.

11.A perusal of the decree in O.S.No.26 of 2011 discloses that the trial Court has declared the sale deed executed by the said Ganesan in favour of Perumal is invalid to the extent of the share of one Ammaponnu. The trial Court has further held that the sale deed executed by the legal heirs of Perumal in favour of the writ petitioner on 28.02.2007 is invalid. Hence, it is clear that the writ petitioner does not have any right over the disputed Well as on today.



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12.The fifth respondent herein has relied upon Patta No.1551 and Patta No.1754 for getting service connection. The property covered in both these Patta numbers exceed 50 cents and hence, the contention of the writ petitioner is not legally sustainable. A perusal of the records indicate that the official respondents have given service connection only after verifying all the revenue records. The contention of the writ petitioner that he is also one of the co-owner is not legally sustainable, in view of the judgment and decree in O.S.No.26 of 2011. When the title of the petitioner has been held to be invalid in O.S.No.26 of 2011, the petitioner cannot have any objection whatsoever for erecting an electricity pole or laying of an underground cable in the disputed property.

13.In view of the above said discussions, I do not find any illegality or infirmity in the order passed by the third respondent herein. There are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08 .08.2022

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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