



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

W.P. (MD) Nos. 648 to 654 of 2022

and

WMP (MD) Nos. 519 to 525 of 2022

Muruganantham.K ... Petitioner in WP (MD) No. 648 of 2022

Gurusamy ... Petitioner in WP (MD) No. 649 of 2022

Vellaisamy.M ... Petitioner in WP (MD) No. 650 of 2022

Karuppasamy ... Petitioner in WP (MD) No. 651 of 2022

Velmurugan ... Petitioner in WP (MD) No. 652 of 2022

R.Murugan ... Petitioner in WP (MD) No. 653 of 2022

Velusamy ... Petitioner in WP (MD) No. 654 of 2022

- Vs. -

- 1.The Divisional Engineer (Highways),
Tenkasi, Tenkasi District.
- 2.The Assistant Divisional Engineer,
Highways (construction and Maintenance) Sivagiri,
Tenkasi District.
- 3.The Assistant Engineer,
Highways (Construction and Maintenance),
Sivagiri, Tenkasi District.
- 4.The Tahsildar,
Kadayanallur Taluk, Tenkasi District.



5.Kandasamy

6.The Chairman,
Tamilnadu Generation and Distribution Corporation Ltd.,
144, Annasalai, Chennai -600002.
(R6 is Suomotu Impleaded Vide Court Order Dated 12.01.2022)

... Respondents in WP(MD)No. 648 to 654 of 2022

Common Prayer :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI to call for the records relating to the impugned order dated 04.01.2022 made in Na.Ka.No.132/2021/A1 passed by the 2nd respondent and quash the same and pass such further or other orders as this Honble Court may deem fit and proper in the nature and circumstances of the case and thus render justice.

For Petitioners : Mr.V.Sasikumar
(in all W.Ps)
For Respondents : Mr.P.Thilakkumar
(For R1 to R4) Government Pleader
(in all W.Ps)

COMMON ORDER

S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The petitioners have come forward challenging the impugned order of the 2nd respondent, dated 04.01.2022.

2. Mr.P.Thilakkumar, the learned Government Pleader appearing for the official respondents would submit that there is an encroachment in the National Highways and hence, the impugned orders have been passed.

3. The petitioners, in reply, would submit that they have purchased the land and the property belonged to them and without conducting any enquiry, it cannot be removed.

4. This Court makes it clear that if any encroachment is found to be made by the private respondents, the electricity service connection with respect to the private respondents shall be disconnected in the light of the Judgment of the Division Bench of this Court in **"P.Selvarajan vs. The Commissioner of Municipal Administration, Chennai and others"** (W.P.No. 21639 of 2017) decided on 13.02.2018, wherein the Division Bench has observed as follows, in consonance with the order of the Supreme Court dated 05.01.2018,



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passed in **Special Leave to Appeal (C) No. 33863 of 2017:**

"3. Learned counsel appearing for the fourth respondent submitted that the fourth respondent has made an application for regularisation and that during the pendency of the proceedings, this Court, by order dated 11.09.2017, directed disconnection of electricity in respect of basement, second and third floors of the fourth respondent's premises, against which, the matter was taken up to the Supreme Court. The Supreme Court, in Petition for Special Leave to Appeal (C).No.26509 of 2017, by order dated 13.10.2017, did not interfere with the said order of this Court dated 11.09.2017, and permitted the fourth respondent herein to move the High Court. During the pendency of this Writ Petition, the fourth respondent herein has filed W.M.P.No.30495 of 2017 seeking direction to the TANGEDCO to restore the electricity connection to the building of the fourth respondent. This Court, by order dated 07.11.2017, rejected the restoration of electricity supply. Thereafter, once again the matter was taken up to the Supreme Court by the fourth respondent, and the Supreme Court, by order dated 05.01.2018 in Petition for Special Leave to Appeal (C) No.33863 of 2017, has dismissed the Special Leave Petition, by observing as follows:

"Heard learned counsel for the petitioner and perused the impugned order dated 07.11.2017 passed in WMP.No.30495/2017 passed by the Madras High Court.

We are not inclined to interfere in the impugned order and accordingly, the Special Leave Petition is dismissed.

However, we direct the authority concerned before whom the application for regularisation under the DTCP Building Regularisation Scheme 2017 is pending to decide the matter in accordance with law within two months."

5. The official respondents are entitled to remove the encroachment after affording an opportunity to the parties to avoid facing departmental proceedings for not discharging their duties and an adverse entry in the Service Record. Till the encroachment are removed and disconnection of electricity, it is open to the Electricity Board to charge five times for the consumption of units



of Electricity at commercial rate from the violators / encroachers.

6. This Court *suo motu* impleads the **Chairman, Tamil Nadu Generation and Distribution Corporation Ltd., 144 Anna Salai, Chennai 600 002, as 6th respondent**, who is expected to inform the concerned jurisdictional Assistant Engineer to comply with the directions that may be imposed by this Court. The Electricity Board shall make periodical visit to the violated place to ascertain theft of electricity.

7. In fine, this Writ Petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

MPK

To

1. The Divisional Engineer (Highways),
Tenkasi, Tenkasi District.
2. The Assistant Divisional Engineer,
Highways (Construction and Maintenance),
Sivagiri, Tenkasi District.
3. The Assistant Engineer,
Highways (Construction and Maintenance),
Sivagiri, Tenkasi District.
4. The Tahsildar,
Kadayanallur Taluk, Tenkasi District.
5. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
144 Anna Salai, Chennai 600 002.

+1 CC to M/s.SPL.GP (SR-1693[F] dated 19/01/2022)

W.P. (MD) Nos. 648 to 654 of 2022

12.01.2022

RD(09.03.2022) 4P 7C