



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.6514 of 2022

and

W.M.P. (MD) .No.5046 of 2022

I.Edward Gettan ... Petitioner

Vs.

1.The Assistant Engineer (Distribution),
TANGEDCO,
Begampur Sub-Station, Near Industrial Estate,
Dindigul District.

2.S.Prabhakaran

3.I.Joseph Nelson

4.I.Prince ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to give electricity supply to the petitioner's shop in No.37D/43, Mettupatti Sandai Road, Dindigul.

For Petitioner	:	Mr.K.K.Udayakumar
For R-1	:	Mr.S.Deenadhayalan
		Standing Counsel

ORDER

This Writ Petition has been filed for a Mandamus seeking for a direction to the first respondent to give electricity service connection to the petitioner's shop situated at No.37D/43, Mettupatti Sandai Road, Dindigul based on the petitioner's application dated 08.03.2022 within a time frame to be fixed by this Court.

2. The petitioner claims that he is the absolute owner of the aforementioned shop and he is in possession of the same. According to him, a partition suit was filed by the petitioner against his brothers and sisters which came to be dismissed in O.S.No.76 of 2011 on the file of the Additional District Court, Dindigul. Aggrieved by the same, it is the contention of the petitioner that an appeal has been filed in A.S. (MD) .No.7 of 2022 before this Court. The said



appeal is pending.

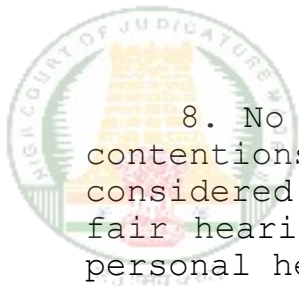
3. According to the petitioner, admittedly, he is in possession of the aforementioned shop, even according to his brothers and sisters as they have admitted his possession as seen from the judgment and decree passed by the Additional District Court, Dindigul dated 30.01.2020 in O.S.No.76 of 2011. According to him, since he is in possession of the shop, there is no prohibition for the first respondent to grant electricity service connection in his favour. In such circumstances, he has filed this Writ Petition seeking for a direction to the first respondent to grant electricity service connection to the aforementioned shop based on his application.

4. Heard Mr.K.K.Udayakumar, learned counsel for the petitioner and Mr.S.Deenadhayalan, learned Standing Counsel, who accepts notice on behalf of the first respondent.

5. Learned counsel for the petitioner relies upon a judgment of the Division Bench of this Court dated 18.09.2017 passed in W.A. (MD).No.146 of 2017 in the case of ***K.P.C.Kandasamy Vs. The Assistant Executive Engineer, Tamil Nadu Electricity Board and others*** and would submit that the only criteria, the first respondent will have to see is, as to who is in possession of the property. According to him, admittedly, since the petitioner is in possession of the property, there is no prohibition for the first respondent to grant electricity service connection in his favour. According to him, it is not necessary to obtain the consent of the brothers and sisters of the petitioner for grant of electricity service connection.

6. Learned counsel for the petitioner also drew the attention of this Court to the judgment and decree dated 30.01.2020 passed in O.S.No.76 of 2011 on the file of the Additional District Court, Dindigul and in particular, he referred to an observation made in the said judgment, wherein, in the written statement filed by the brothers and sisters of the petitioner, they themselves had admitted that the petitioner is in possession of the aforementioned shop. According to the learned counsel for the petitioner, therefore, there is no bar for the first respondent to grant electricity service connection in favour of the petitioner.

7. However, the learned Standing Counsel for the first respondent would submit that unless and until consent is obtained from the brothers and sisters of the petitioner, it may not be possible for the petitioner to get an electricity service connection for the aforementioned shop in his favour. He would also submit that the Division Bench judgment relied upon by the learned counsel for the petitioner pertains to a land lord-tenant relationship and hence, the same is not applicable to the case of the petitioner.



8. No prejudice would be caused to the first respondent, if the contentions of the petitioner raised in this Writ Petition are considered on merits and in accordance with law, after affording a fair hearing to the petitioner including granting him the right of personal hearing.

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9. For the foregoing reasons, this Court directs the first respondent to consider the petitioner's application dated 08.03.2022 seeking for electricity service connection in his name for the shop situated at No.37D/43, Mettupatti Sandai Road, Dindigul and pass final orders on merits and in accordance with law, in the light of the Division Bench judgment referred to supra, after affording a fair hearing to the petitioner and other necessary parties, whom the first respondent deems fit to enquire, including granting them the right of personal hearing, within a period of six (6) weeks from the date of receipt of a copy of this order.

10. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

Lm

+1 CC to M/s.K.K. UDAYA KUMAR, Advocate (SR-17868[F] dated 11/04/2022)

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-18342[F] dated 12/04/2022)

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