



W.A(MD) No.1275 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A(MD) No.1275 of 2022
and
C.M.P(MD) No.9855 of 2022**

R.Karuppanan

... Appellant

-VS-

1. R.Natarajan
2. The Superintendent Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation(TANGEDCO),
N.R.T. Nagar Main Road, Theni District.
3. The Executive Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation (TANGEDCO),
Municipal Commercial Complex,
Vaigai Road, Periyakulam, Theni District.
4. The Assistant Engineer,
Tamil Nadu Electricity Generation and



W.A(MD) No.1275 of 2022

Distribution Corporation (TANGEDCO),
Rajathani, Andipatti, Theni District.

... Respondents

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Prayer: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 17.06.2022 made in W.P(MD) No.5435 of 2020.

For Appellant : Mr.R.Rajaraman

For Respondents : Mr.J.Senthil Kumariah
for R1
Mr.S.Deenadhayalan
Standing Counsel for R2 to R4

J U D G M E N T

(Order of the Court was made by R.MAHADEVAN, J.)

Aggrieved over the order dated 17.06.2022 passed by the Writ Court in W.P(MD) No.5435 of 2020, the appellant / fourth respondent in the said writ petition, has come up with this writ appeal.

2. The aforesaid writ petition was filed by the first respondent / writ petitioner, to set aside the order dated 01.02.2020, passed by the third respondent herein and direct him to disconnect the appellant / fourth respondent's service connection in S.C.No. 537-001-521 and restore the service connection in S.C.No.12 in the name



W.A(MD) No.1275 of 2022

of the first respondent / writ petitioner in Survey No.133/4, based on the relevant revenue documents. This Court by order dated 17.06.2022, has passed the following order:-

“Heard the learned counsel for the writ petitioner and the learned standing counsel for the respondents 1 to 3. Though the fourth respondent has been served and his name is printed in the cause list, he has not chosen to enter appearance.

2. According to the petitioner, the fourth respondent who has no right over the well in question has illegally obtained free electricity service connection. When the petitioner moved the respondent authorities, they took the stand that there are no revenue records to show that the well in question does not belong to the fourth respondent. The petitioner's counsel states thereafter he moved the jurisdictional Revenue Divisional Officer, who clearly ordered that the fourth respondent has no right over the well in question. The fourth respondent is said to have preferred an appeal before the District Revenue Officer. The District Revenue Officer also confirmed the order of the Revenue Divisional Officer. In these circumstances, the petitioner wants the authority concerned to revisit the issue. I find the said request to be reasonable. I therefore permit the petitioner to file a fresh representation before the second respondent by enclosing the orders passed by the Revenue Divisional Officer as well as the District Revenue Officer. Thereafter, the second respondent will enquire into the same and pass



W.A(MD) No.1275 of 2022

final order after issuing fresh notice to the fourth respondent herein. The entire exercise shall be completed within a period of twelve weeks after receipt of a fresh representation from the writ petitioner herein.

3.The writ petition is disposed of accordingly. No costs.”

3. The learned counsel for the appellant submitted that the land in Survey No.133 to an extent of 2 Acres 45 Cents originally belonged to his father Ramasamy Moopar and after his demise, based on the oral partition made among his four sons, including the appellant herein, in the capacity of legal heirs. As per the said oral partition, the subject land was subdivided into Survey Nos.133/2, 133/3, 133/4 and 133/5. A common well and channel with electricity connection in S.C.No.521, in Survey No.133/4, was commonly enjoyed by the aforesaid legal heirs for irrigation to their respective lands, without affecting the rights of each other. Thereafter, one of the legal heirs, namely, Marutha Moopar sold his share of the property in Survey No. 133/4, measuring to an extent of 58 Cents, to the first respondent/ Natarajan, thereby he became a co-owner of the common well and channel having electricity connection in S.C.No.521. While so, claiming



W.A(MD) No.1275 of 2022

individual ownership and right over the common well and channel in Survey No.133/4, the first respondent / writ petitioner filed an appeal before the Revenue Divisional Officer, Periyakulam, to cancel the joint patta issued in respect of Survey No.133/4 and to issue an individual patta in his name. The said authority by order dated 23.01.2019, allowed the appeal, against which, the appellant herein along with two others filed a review petition. The said review petition was also dismissed on 28.02.2019, by the District Revenue Officer, Theni. Under these circumstances, the first respondent / writ petitioner made an application before the second respondent to disconnect the electricity connection in respect of the aforesaid survey numbers, however, the same was rightly denied by the second respondent *vide* his order dated 01.02.2020. Challenging the said order, the first respondent / writ petitioner has filed WP(MD) No.5435 of 2020 and this Court, without appreciating the facts of the case properly has disposed of the writ petition as stated above. Thus, the learned counsel prayed that the order of the learned Judge warrants interference at the hands of this court.

4. We have heard the submissions made by the learned counsel for the appellant / fourth respondent and the learned counsel for



W.A(MD) No.1275 of 2022

the first respondent / writ petitioner and perused the materials available on record.

5. The first respondent/writ petitioner has filed a counter affidavit disputing the grounds of appeal filed by the appellant. The learned counsel for the first respondent submitted that the first respondent is having the absolute right over the land and well set up with electrified motor pump-set with S.C.No.12 in S.No.133/4 and the Tahsildar has also issued separate patta in Patta No.1138 in the name of the first respondent. According to the first respondent, the appellant obtained joint patta based on the forged documents and obtained service connection No.537-001-521 for the well situated in S.No.133/4. Therefore, the first respondent filed appeal in Na.Ka.No.6395/2009/A1 in 2009 before the Revenue Divisional Officer, Periyakulam, to cancel the joint patta issued by the Tahsildar, Andipatty, in RTR No.1685/2006 dated 21.12.2006 and to confirm the separate patta issued to the first respondent earlier in RTR.No.804/06. The said appeal was allowed on 23.01.2019 and though a revision petition was filed by the appellant against the order passed in the aforesaid appeal, the revisional authority also confirmed order dated 23.01.2019 passed by the Revenue Divisional



W.A(MD) No.1275 of 2022

Officer, Periyakulam, by dismissing the revision on 28.02.2022.

Considering the above facts, the Writ Court has rightly directed the third respondent herein to consider the fresh representation of the petitioner, enquire into the matter and pass final order, after issuing notice to the appellant. Without pursuing the matter with the third respondent, the appellant has filed the present appeal only to protract the proceedings. Thus, the learned counsel submitted that the writ appeal deserves to be dismissed.

6. Perusal of record shows that though the appellant contended that the first respondent is only a co-owner of the common well and channel in question and that there was only a joint patta in respect of the said well and channel, on the appeal filed by the first respondent, the Revenue Divisional Officer, Periyakulam, has passed a detailed order cancelling the aforesaid joint patta and directed for issuance of separate patta in respect of the aforesaid well and channel in the name of the first respondent. Though the appellant challenged the same by filing a revision before the District Revenue Officer, Theni, it was dismissed confirming the order passed by the RDO. Considering the above, the Writ Court rightly directed the third respondent herein to consider the



W.A(MD) No.1275 of 2022

fresh representation of the petitioner, enquire into the matter and pass final order, after issuing notice to the appellant. Hence, this Court is not inclined to interfere with the said order of the learned Judge. Thus, the appellant can very well put forth his case before the authorities concerned as per the order passed by the Writ Court. Further, it is made clear that the civil disputes between the parties cannot be adjudged by this Court sitting in the Writ jurisdiction.

7. With the above observations, the Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]
28.10.2022

Index : Yes / No
Internet : Yes / No
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To

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W.A(MD) No.1275 of 2022

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W.A(MD) No.1275 of 2022

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W.A(MD) No.1275 of 2022

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