



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.22695 of 2021

and

WMP No.19171 of 2021

Stephan

... Petitioner

Vs.

1. The Superintendent Engineer
TNEB, Production Circle,
(TANGEDCO)
Tirunelveli District.
2. The Executive Engineer
TNEB, Civil and Production Circle
(TANGEDCO)
Tirunelveli District.
3. The Executive Engineer
TNEB, Electricity Power Stations,
(TANGEDCO)
Papanasam Project
Tirunelveli District.
4. The Assistant Engineer,
TNEB, Civil Maintenance
(TANGEDCO)
Papanasam Project
Tirunelveli District
5. The Assistant Executive Engineer
TNEB, Civil Maintenance
(TANGEDCO)
Papanasam Project,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order in Vu.No.269/Me.Po/Vu.Va/Teli/Ni.Me/Sababi/Vu.2/ Coo.Sambalapiditham/21 dated 26.08.2021 on the file of the 1st respondent and quash the same as illegal.

For Petitioner : Mr.A.Sankarasubramanian

For Respondents : Mr.S.Arivalagan



ORDER

The order of recovery to recover the rent for the land in occupation of the petitioner in proceedings dated 26.08.2021 is under challenge in the present writ petition.

2. The petitioner states that he is residing in the TANGEDCO official quarters allotted by the respondents. The petitioner joined as a Contract Labourer in the year 1992 and subsequently appointed as Senior Field Assistant (Gang Mazdoor) as permanent employee with effect from 11.06.2010. He was transferred to Papanasam and now working as line man at Papanasam Lower Camp.

3. The petitioner states that his father was in occupation of the land measuring 1300 sq. ft., belongs to the TANGEDCO and he was running a Tea stall and after his death in the year 2000, the Tea shop was closed. The mother of the petitioner also died in the year 2001 leaving behind 7 sons and 5 daughters as legal heirs. The petitioner is working as a permanent employee in the TANGEDCO. The petitioner states that the respondents are going on enhancing the rent for the land, which was in occupation of his father initially.

4. The learned counsel for the petitioner states that it is in the occupation of the legal heirs namely, 7 sons and 5 daughters. The petitioner filed O.S.No.218 of 2001 before the Additional District Munsif, Ambasamudram for a permanent injunction not to disconnect the electricity and water connection and the suit was decreed in favour of the plaintiffs.

5. The grievance of the writ petitioner is that the TANGEDCO is enhancing the rent periodically in an exorbitant manner and started recovering rent from the salary of the petitioner. Thus, the order of recovery of rent from the petitioner's salary is under challenge in the present writ petition.

6. The learned counsel for the petitioner reiterated that the father of the writ petitioner was in occupation of the land to the extent of 1300 sq. ft., he was running a tea stall and after his death, the tea shop was closed. Though the petitioner states that his father died leaving behind 7 sons and 5 daughters as legal heirs, he filed a suit along with other third parties, who are all in occupation in the disputed land. Thus, the legal heirs are not parties to the civil suit. Therefore, the stand now taken that the other legal heirs are in possession cannot be taken into consideration. If at all they are in occupation, it is undoubtedly an illegal occupation and they are not parties to the civil suit and the petitioner along with other occupants filed a civil suit. Thus, the petitioner has made contradictory statements in this regard.

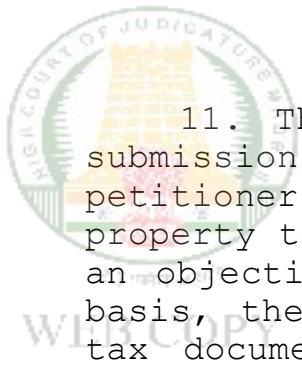


7. The learned counsel for the petitioner further stated that the petitioner was made as a permanent employee in the year 2010 and he is not running any tea stall in the said land. However, he is in occupation of the said land and the authorities are imposing rent in an exorbitant manner. Thus, the petitioner is constrained to move the present writ petition.

8. The learned counsel for the respondents, on behalf of the respondents TANGEDCO, objected the contentions seriously by stating that the petitioner has no authority to continue in the land. No doubt, he filed a suit. However, the suit is only for injunction and not for declaration. Injunction is granted not to disconnect water and electricity.

9. It is contended that the father of the writ petitioner was permitted to run a tea shop. There was no lease agreement or document in favour of the father of the writ petitioner, as during the relevant point of time in the year 1962, construction of dam was going on and in order to accommodate the labourers nearby the dam, the TANGEDCO permitted the labourers to stay and few persons were permitted to run tea shop and other shops, which would be beneficial to the labourers, who had involved in construction activities of the dam. Therefore, they were only in permissive occupation and they have no right to possess the land after the completion of the project by the TANGEDCO. However, the persons have illegally continued and on account of certain local issues, the TANGEDCO authorities could not evict those persons. But the authorities have started collecting the rent from those persons. Originally the labourers left the place and thereafter some persons are in occupation, who are not having any right in respect of their possession. Admittedly, the petitioner is a permanent employee of the TANGEDCO and he is not running any tea shop or otherwise in the said land. Thus, he has no right to continue to be in possession of the land. Further, the authorities have issued several notices to the petitioner, for recovery of rent and for evicting the unauthorised persons.

10. The learned counsel for the respondents further brought to the notice of this Court that by showing the civil Court decree, these persons are threatening the authorities and in view of the decree of injunction, the authorities have hesitated to evict all illegal occupants in the TANGEDCO properties. Even the rent is unable to be collected, as they are refusing to pay the market rent prevailing in the locality. Till the year 2021, the petitioner was paying Rs.39/- per month in respect of the lands measuring 1300 sq. ft., which is 5 kms., from Papanasam.



11. The learned counsel for the respondents further made a submission that several notices were issued and even the petitioner has gone to the extent of changing the name in the property tax document in the Municipality. The respondents raised an objection that as in the absence of any valid title, on what basis, the Municipality has transferred the name in the property tax document. The said objection is also pending. The name transfer for property tax assessment has been made by violating the procedure contemplated under the Act. For effecting name transfer, the documents must be filed establishing the ownership. When the petitioner himself admitted that TANGEDCO is the owner of the property, under what circumstances, the Municipality issued transfer of name in property tax and in this regard, the authorities concerned are bound to initiate appropriate proceedings and if any fraudulent activities are committed then police complaint is to be registered, if required and if any such offences are noticed.

12. This Court is of the considered opinion that the case on hand is a classic case, where the petitioner, who is a permanent employee is consistently making an attempt to grab the property belongs to the TANGEDCO. No doubt, his father was permitted to run the tea stall in the year 1962. However, he died in the year 2000. He was running a tea stall for the benefit of the labourers, who had engaged for construction of dam and perform certain work in the TANGEDCO. The tea shop was also closed. Thereafter, many persons illegally occupied and put up certain temporary sheds and continuing such illegal occupation. Those illegal occupants filed a civil suit and got an injunction order not to disconnect the water and electricity connection. However, mere possession would not confer any title. All those persons admitted that the property belongs to TANGEDCO and they were not properly paying rent also. The TANGEDCO authorities are not entered into any lease or an agreement with these persons. In view of the fact that they are unable to evict the persons, they started collecting the rent as an alternate method. Therefore, mere collection of rent would not confer any right on the persons to claim title or right to continue in the property even. Payment of property tax is not a ground to claim title or ownership. Therefore, for all reasons, the petitioner is in illegal occupation of the land measuring 1300 sq. ft. He is not running tea stall and he cannot do so, as he is a permanent employee of the TANGEDCO. Some other persons, who are all plaintiffs in the suit are in illegal occupation. The relief sought for in the suit itself reveals that the suit was filed for injunction not to disconnect electricity and water supply. Therefore, the suit itself is not connected with possession or ownership. The water and electricity connection being an essential service, the civil Court granted an order of injunction. Therefore, the decree in



the civil suit will not be a bar for the authorities to evict all those illegal occupants from the premises. The suit is no way connected with the title or possession or ownership.

13. Admittedly, the respondents have not entered into any lease or agreement with any of these persons including the petitioner. The respondents have not authorised any person to continue to be in possession. Contrarily they are going on issuing notices to pay the rent and to evict the persons. In fact, the TANGEDCO needs the particular land for the purpose of development of TANGEDCO infrastructure and they are consistently taking attempts to evict these persons. But these illegal occupants are threatening the authorities merely showing the civil Court decree. As pointed out earlier, the civil Court decree is only in respect of water connection and electricity connection and no way connected with the eviction of the illegal occupants.

14. As far as the petitioner is concerned, it is brought to the notice of this Court by Mr.R.Livingston Manikaraj, Assistant Administrative Officer, office of the TANGEDCO, Tirunelveli, who is present and assisted the learned counsel for the respondents, that the petitioner has already been allotted with the official quarters in the same location and he is residing along with his family in the official residence. Thus, he is in illegal occupation of the land measuring 1300 sq. ft. and he is not doing any activities in the land and not paying the rent as demanded by the TANGEDCO. Therefore, the petitioner has no locus standi to claim any right in the said property.

15. The writ petition has been filed challenging the order of recovery. However, the petitioner could not able to establish any right in respect of the property. During the course of arguments, this Court finds that there are lot of illegalities, which were committed by the petitioner as well as by the other persons, who are all in illegal occupation of the TANGEDCO properties. Thus, this Court is inclined to pass the following orders:

(i) The relief sought for in the present writ petition stands rejected ;

(ii) The respondents are directed to take possession of the land measuring 1300 sq. ft., wherein the petitioner is not in occupation and usage of the said land, within a period of 48 hours from the date of receipt of a copy of this order ;

(iii) The respondents are bound to evict all other illegal occupants by issuing appropriate notice and by following the procedures as contemplated for the purpose of utilising the subject land for the developmental activities of TANGEDCO ;



(iv) The respondents are directed to recover the arrears of rent and other charges from the petitioner as determined by following the procedures.

(v) The District Superintendent of Police, Tenkasi and the Deputy Superintendent of Police, Ambasamudram, are directed to provide necessary police protection to the TANGEDCO authorities for the purpose of evicting all illegal occupants, who are all in occupation of the TANGEDCO properties.

16. The writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

RR

To

1. The Superintendent Engineer
TNEB, Production Circle,
(TANGEDCO)
Tirunelveli District.
2. The Executive Engineer
TNEB, Civil and Production Circle
(TANGEDCO)
Tirunelveli District.
3. The Executive Engineer
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Papanasam Project
Tirunelveli District



5. The Assistant Executive Engineer
TNEB, Civil Maintenance
(TANGEDCO)
Papanasam Project,
Tirunelveli District.

6. The Superintendent of Police,
Tenkasi.

7. The Deputy Superintendent of Police
Ambasamudram, Tenkasi District.

+1 CC to M/s.A.SANKARARAMASUBRAMANIAN, Advocate (SR-10681[F] dated
08/03/2022)

+1 CC to M/s.S.ARIVALAGAN, Advocate (SR-10756[F] dated
09/03/2022)

ORDER MADE IN
W.P. (MD) No.22695 of 2021
07.03.2022

USK/18.03.2022/7P/10C