



W.P.No.4001 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.4001 of 2022
and W.M.P.Nos.4137 and 4141 of 2022

D.Panneer Selvam

... Petitioner

Vs.

1.The Executive Engineer
Operation and Maintenance
Tamil Nadu Electricity Board
Athur Town and Taluk, Salem

2.The Assistant Executive Engineer
Operation and Maintenance
Tamil Nadu Electricity Board
Veeraganur, Gangavalli Taluk
Salem District 636 116

3.The Assistant Engineer
Tamil Nadu Electricity Board
Puliyankurichi, Salem District

4.D.Rajamani

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned letter No.AE/O & M/Puli/VA/GO,Thani/No.162/2021-22 dated 04.02.2022 issued by the 3rd respondent and quash the same and further direct the respondents 1 to 3 to conduct a thorough and detailed enquiry and verify the title and ownership of the 4th respondent over the proposed place where he wants to have the fresh Electricity Service connection comprised in S.No.252/2B based on the Surveyor's Report. VAO's certificate and with other relevant title documents by giving an opportunity to all the concerned parties if the 4th respondent fails to satisfy the title over the land in S.No.252/2B his representation dated 16.07.2020 is liable to be rejected or to pass any other appropriate order.

For Petitioner : Mr.K.Sathyabal

For Respondents : Mr.I.Syed Sibghatulla
Standing Counsel for TNEB - R1 to #

Mr.T.Velu - R4

ORDER

The respondents have filed their counter, which indicates that the site where the 4th respondent has put up his residential building is disputed and also stuck in a civil litigation in O.S.No.181 of 2019, on the file of District Munsif Court, Attur.



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2.Heard both sides.

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3.Learned counsel for the respondents highlighted that earlier apprehending that the respondents might grant electricity connection to the 4th respondent, the petitioner preferred W.P.No.2802 of 2021. However, during its pendency the respondents had come out with its proceedings dated 04.02.2022, the proceeding which is now under challenge in this case, by which it has given electricity connection to the 4th respondent.

4.Learned counsel for the petitioner fundamentally emphasized on the fact that the 4th respondent has suppressed his earlier representation for electricity connection and came up with a fresh connection and the same official who earlier rejected the service connection has now granted the same and this is bit suspicious.

5.There are two parts to this dispute. Whether the same Assistant Engineer has taken two different decisions on the same issue at different points of time is something that has to be departmentally investigated. This Court therefore



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requires the 1st respondent herein to cause an enquiry into that and the petitioner herein is free to approach the 1st respondent with his complaint in this regard. The second part of his grievance is that the 4th respondent has obtained electricity connection to a house which is put up in petitioner's site. So far as this is concerned, since the title to the property over which the building stands is the subject matter of O.S.No.181 of 2019, and it may not be appropriate for this Court to make a statement on this, since the Civil Court has to take a decision as to whether the 4th respondent is an encroacher of the petitioner's property. In this regard, the petitioner is at liberty to approach the Civil Court for appropriate interim relief.

6.This Court also directs the Civil Court to appoint an Advocate Commissioner, who has reasonable experience on the civil side and in the estimate of the court someone who regularly appears in the Court as a Commissioner to survey and measure the property. After all, in a suit such as this where plaintiff alleges encroachment by the defendant, the report of the Advocate Commissioner for local inspection will be of considerable use to the Court.



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7.The trial Court is also required to expedite the trial of the matter since there should be clarity about the enjoyment of the property by the 4th respondent.

Since the parties are brothers, the trial Court is also required to give its best efforts to find whether the dispute could be resolved amicably between the parties through ADR methods.

8.This writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

26.07.2023

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Index : Yes / No

Neutral Citation : Yes / No

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