



W.P.No.4580 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.4580 of 2023

and

W.M.P.No.18114 of 2023

P.Palani

... Petitioner

Vs.

1.The Assistant Engineer,
Operations and Maintenance,
Tamil Nadu Generation and Distribution
Corporation Limited,
Arani (West),
Tiruvannamalai District.

2.E.Arasu

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in Letter No.Uu.Mi.Po/E & Pa/Nagar West Arani/Va.Aa/Ko.Pu/Mi.E No.065/2022, dated 17.08.2022 and quash the same and consequently, direct the first respondent to provide electricity service connection to the petitioner's building located in S.F.No.150/7A and 150/7B in Paiyur Village, Arani Taluk, Tiruvannamalai District.



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For Petitioner : Mr.P.Kannan Kumar
For Respondents : Mrs.Daniel Mary
Standing Counsel [R1]
Mr.S.Rajkumar [R2]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in Letter No.Uu.Mi.Po/E & Pa/Nagar West Arani/Va.Aa/Ko.Pu/Mi.E No.065/2022, dated 17.08.2022 and quash the same and consequently, direct the first respondent to provide electricity service connection to the petitioner's building located in S.F.No.150/7A and 150/7B in Paiyur Village, Arani Taluk, Tiruvannamalai District.

2. Though the petitioner filed W.M.P.No.18114 of 2023 seeking to fix an early date for hearing of the present writ petition, he has consented for the disposal of the main writ petition itself.

3. The case of the petitioner is that, he purchased the property in Survey Nos.150/7A and 150/7B in Paiyur Village, Arani Taluk,



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Tiruvannamalai district to an extent of 3534 sq.ft. from one R.Gomathi on 10.06.2022 vide document No.5123 of 2022 and the same is enjoyed by the petitioner. Thereafter, the property assessed in favour of the petitioner and the Village Administrative Officer, Paiyur Village, by letter dated 11.08.2022 recommended for grant of electricity connection in favour of the petitioner to the first respondent. Pursuant to which, on 12.08.2022, the petitioner made an application before the first respondent through online seeking electricity service connection along with fees. However, the first respondent rejected the petitioner's request for grant of electricity connection vide impugned order dated 17.08.2022 on the ground that there was a civil suit is pending for the very same property. Challenging the same, the petitioner has filed the above writ petition.

4. The learned counsel for the petitioner submits that the property was originally owned by the second respondent and he has availed a loan from the Indian Bank, Arani Branch. Due to non-payment of loan, the subject property was sold by way of public auction by the Bank under SARFAESI proceedings and the sale was also confirmed. Thereafter, one Moorthy participated in the bank auction and the bank also issued a sale



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certificate in his favour and the same was registered with the Sub Registrar, Arani in Document No.4809 of 2007. The said Moorthy has sold the entire property to one Ravi, who in turn, executed settlement deed in favour of his wife R.Gomathi, who is the vendor to the petitioner. Thereafter, the petitioner purchased the property from the said Gomathi. While so, one E.Raju, who is the brother of the second respondent has filed a civil suit in O.S.No.209 of 2019 before the Subordinate Judge, Arani for declaration of title. Citing the said pendency of the civil suit, the first respondent refused to grant electricity service connection in favour of the petitioner, which is not sustainable. Further, claim of the petitioner is that, either the petitioner or the previous vendors are impleaded as parties in the said civil suit. Without impleading them as parties, the said E.Raju filed a civil suit, which is not maintainable and the same is not binding on the petitioner to get electricity service connection. Accordingly, he prays for allowing the writ petition.

5. The learned Standing Counsel appearing for the first respondent submits that, the petitioner had produced property tax receipt for S.Nos.150/7A & 7B. Admittedly, on 12.08.2022, the Village



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Administrative Officer, Paiyur Village had issued a certificate stating that the building has been constructed by the petitioner and recommended for grant of electricity service connection. However, subsequently, on 17.08.2022, the said Village Administrative Officer has given another letter informing that the previous certificate given by him need not be considered as there was a civil suit pending with regard the very same property and also requested not to give service connection in the name of the petitioner for the subject property. In view of the letter dated 17.08.2022, the electricity service connection cannot be given to the petitioner's property and the connection could be given only after disposal of the civil suit. Accordingly, he prays for dismissal of the writ petition.

6. Heard the learned counsel for the petitioner, learned Standing Counsel appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.



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7. Admittedly, the disputed property was originally owned by the second respondent and he availed a loan from the Indian Bank, Arani Branch. However, the said loan amount was not paid by the second respondent, thereby, the Indian Bank conducted public auction through SARFAESI proceedings and one Moorthy taken the property in the bank auction and the said Moorthy has sold the entire property to one Ravi, who in turn, executed settlement deed in favour of the petitioner's vendor, namely R.Gomathi and thereafter, the petitioner purchased the property from the said R.Gomathi in the year 2022, vide document No.5123 of 2022. From which, it is seen that there are two alienations subsequent to the alienation of the property by the Indian Bank to the said Moorthy. This Court, is of the view that, mere recommendation of the Village Administrative Officer not to issue electricity service connection on the ground of pendency of the civil suit, is not a bar for the Electricity Board to refuse the petitioner's claim. Hence, the impugned order passed by the first respondent is liable to set aside.

8. Accordingly, the impugned order passed by the first respondent in Letter No.Uu.Mi.Po/E&Pa/Nagar West



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Arani/Va.Aa/Ko.Pu/Mi.E No.065/2022, dated 17.08.2022 is set aside and the first respondent is directed to issue electricity service connection in favour of the petitioner, however, the issuance of electricity service connection in favour of the petitioner is subject to the result of the civil suit filed by the brother of the second respondent in O.S.No.209 of 2019.

9. With the above observations and direction, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

28.06.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Assistant Engineer,
Operations and Maintenance,
Tamil Nadu Generation and Distribution Corporation Limited,
Arani (West),
Tiruvannamalai District.



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M.DHANDAPANI, J.

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