



W.P.No.7783 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.7783 of 2023

G.Kumar

...Petitioner

Vs.

1. The Assistant Engineer, TANGEDCO,
Grand Line, EB office,
Redhills, Chennai - 600 052.
2. The Chairman,
Tamil Nadu Electricity Board,
6th Floor, TANGEDCO Building,
No.144, Anna Salai, Chennai - 600 002.

3. A.Suriya Narayanan

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents 1 & 2 to change the Electricity service connection No.454-003-3468 in the name of the petitioner based on the representation given by the petitioner dated 31.3.2022.

For Petitioner : Mr.B.Govindaprabu

For Respondents : Mr.L.Jaivenkatesh, SC, for R1 & R2



W.P.No.7783 of 2023

ORDER

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The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus to direct the 1st and 2nd respondent to consider the petitioner's representation dated 31.03.2022 and to consequently change the Electricity service connection No.454-003-3468 to the petitioner's name.

2. Mr.L.Jaivenkatesh, learned Standing Counsel takes notice for the 1st and 2nd respondents. In view of the consent expressed by the Learned counsel appearing on either side, this petition is taken up for final disposal at the admission stage itself.

3. Since no adverse order is being passed against the 3rd respondent, notice to the private respondent is dispensed with.

4. The case of the petitioner is that he claims to have purchased the property comprised in S.Nos.575/1 & 575/2, situated at No.52, Puzhal Village bearing Plot No.17, Kannappasamy Nagar, Puzhal, Chennai, measuring an extent of 1200 sq.ft., from one Kalavathi, vide registered sale deed dated 08.03.2010 bearing Doc.No.1548 of 2010 and pursuant to the said purchase, the petitioner is in peaceful possession and enjoyment of the



W.P.No.7783 of 2023

said property. It is the further case of the petitioner that, he borrowed a sum of Rs.15,50,000/- from the 3rd respondent herein, who is none other than his close friend, however, due to loss in the business, the petitioner was unable to repay the same. While such being the case, the 3rd respondent under the pretext of availing loan by mortgaging the above said petitioner's property, made the petitioner to enter into declaration deed dated 11.11.2013 and execute sale deed in respect of the subject property for a value of Rs.48,00,000/- on the false promise that, it is only a dummy document to avail loan and assured the petitioner that, they will not claim any right over the property. However, the 3rd respondent, subsequently, registered the said sale deed as Doc.No.12834 of 2013 dated 11.11.2013 and pursuant to which, the 3rd respondent availed loan for a sum of Rs.48,00,000/- and he failed to repay the loan amount and also threatened the petitioner to hand over the possession of the said property to him. Thereby, the petitioner filed a suit in O.S.No.156 of 2015 on the file of the District Munsif Court, Thiruvotiur, seeking permanent injunction against the 3rd respondent, his wife and bank officials, however, the same was rejected by application of the Bank officer in I.A.No.270 of 2017. In the mean while, as the 3rd respondent did not pay the EMI, the bank authority has initiated



W.P.No.7783 of 2023

SARFAESI proceedings in O.A.No.529 of 2017 before the DRT-II for attachment of the subject property and the same was allowed on 03.09.2018, against which the petitioner filed a Set aside application in M.A.No.23 of 2019 and the same was allowed and the proceedings are pending for adjudication. Further, the petitioner filed another suit in O.S.No.155 of 2020 on the file of the District Munsif Court, Madhavaram against the 3rd respondent, his wife, bank officials and Sub Registrar, seeking to declare the Sale deed dated 11.11.2013 as null and void and for permanent injunction and the suit is posted for exparte evidence. While such being the legal position, the 3rd respondent changed the electricity service connection in respect of the subject property to his name. Aggrieved by the said action of the 3rd respondent, the petitioner made a representation dated 31.03.2022 before the 1st and 2nd respondents, seeking to change the Electricity service connection to the petitioner's name, however, till date, no orders have been passed on the same. Hence, this Writ petition.

5. Though very many grounds have been raised, learned counsel for the petitioner submits that it would suffice if this Court issues direction to the 1st and 2nd respondents to consider the petitioner's representation dated



W.P.No.7783 of 2023

31.03.2022 and to consequently change the Electricity service connection

No.454-003-3468 to the petitioner's name.

6. On the above said contentions, heard learned Standing Counsel appearing for the 1st and 2nd respondents and perused the materials available on record.

7. A perusal of the material documents placed on record reveals that, there was a property dispute pending in between the petitioner and the private respondent, for which, the petitioner filed suits in O.S.Nos.156 of 2015 on the file of the District Munsif Court, Thiruvoturi and in O.S.No.155 of 2020 on the file of the District Munsif Court, Madhavaram. While so, pending the said Suits, filing the present Writ petition seeking direction to the respondents to change the Electricity service connection No.454-003-3468 in respect of the subject property to the petitioner's name is not sustainable. Further, the issue involved in the present Writ petition is purely civil in nature and the same cannot be adjudicated under Article 226 of the Constitution of India and the same cannot be decided by the respondent Electricity board officials as well. Hence, the prayer sought by



W.P.No.7783 of 2023

the petitioner in the present Writ petition cannot be acceded to.

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8. For the reasons aforesaid, this Writ petition stands dismissed. No costs.

14.03.2023

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Speaking Order : Yes/ No

Index : Yes/ No

To

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6/8



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W.P.No.7783 of 2023

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skt

W.P.No.7783 of 2023



WEB COPY



W.P.No.7783 of 2023

14.03.2023