



WEB COPY



W.P. No.7846 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.7846 of 2020

Noor Mohammed Sadhath Khan

... Petitioner

Vs

1. Superintending Engineer,
TANGEDCO,
Cuddalore.

2. The Assistant Engineer (Operation and Maintenance),
Parangipettai,
Cuddalore District.

3. Faridha Khatoon

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondent to provide the electricity connection for the Masjid Maimun Mosque, situated in Salakarai Mariyamman Koil Street, Agaram Village, Parangipettai Taluk.

For petitioner

: Mr.G. Mohammed Aseef

For respondents

: Mr.Venkata Seshaiya for R1 & R2

Mr.A. Muthukumar for R3



W.P. No.7846 of 2020

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the 1st and 2nd respondent to provide the electricity connection for the Masjid Maimun Mosque, situated in Salakarai Mariyamman Koil Street, Agaram Village, Parangipettai Taluk.

2. The case of the petitioner is that he is the President of Masjid Maimun Mosque, which was constructed in the year 2019 for the worship of local Muslim residents at Parangipettai. Further, the property, where the said Mosque is constructed, originally belongs to 3rd respondent's father. It is averred that the 3rd respondent's father had given oral hiba (gift) of 0.07 cents to construct the said Mosque in memory of his mother. After completion of the said construction, the petitioner has submitted an application before the 2nd respondent for the supply of electricity connection along with necessary enclosures, which evoked no response. Hence, this writ petition with the aforesaid prayer.

3. Learned counsel for the petitioner submitted that the said property has been gifted by the 3rd respondent's father by way of Oral Hiba. He also submitted that while submitting the application before the official



W.P. No.7846 of 2020

respondents seeking for electricity service connection, the petitioner has enclosed the No Objection Certificate issued by the VAO. Hence, it would suffice if this Court issues direction to the official respondents to consider the petitioner's application, dated 14.02.2020, within a time frame to be fixed by this Court.

4. Learned counsel for the respondents 1 and 2 submitted that since there was an objection raised by the 3rd respondent with regard to ownership of the said property, the official respondents are unable to effect electricity service connection. Hence, this Court may issue appropriate directions in the above regard.

5. Learned counsel for the 3rd respondent submitted that the 3rd respondent is the owner of the property. Further, he vehemently contended that the 3rd respondent's father has never given oral gift in favour of the petitioner. He fairly submitted that a suit for partition in O.S. No.174 of 2015 is pending before the Sub Court, Chidambaram between the 3rd respondent and her brother. In order to drag on the said proceedings, this



W.P. No.7846 of 2020

writ petition has been filed. Hence, the prayer sought for in this writ petition deserves no merit and prays for mere dismissal.

6. This Court bestowed its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

7. A bare perusal of records reveals that the disputed property is originally owned by the 3rd respondent's father. Though it is claimed by the petitioner that the said property has been gifted by the 3rd respondent's father by way of Oral Hiba, while the same has been disputed by the 3rd respondent, however, oral gift is not valid in the eye of law, unless the 3rd respondent has accepted the oral gift executed by his father. Further, it is crystal clear that based on an oral gift, no electricity service connection can be effected. From the submissions, it reveals that a suit for partition in O.S. No.174 of 2015 is pending before the Sub Court, Chidambaram between the 3rd respondent and her brother. Since, there are disputed questions of fact involved, this Court cannot issue any affirmative directions in favour of the



W.P. No.7846 of 2020

petitioner. Therefore, the prayer sought for by the petitioner is unsustainable.

8. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However, liberty is granted to the petitioner to approach the competent civil to resolve the issue. No costs.

02.06.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

To
1. The Superintending Engineer,
TANGEDCO,
Cuddalore.

2. The Assistant Engineer (Operation and Maintenance),
Parangipettai,
Cuddalore District.

M.DHANDAPANI, J.



WEB COPY



W.P. No.7846 of 2020

vsi2

W.P. No.7846 of 2020

02.06.2023