



W.P.No.10772 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10772 of 2020

and W.M.P.No.13090 of 2020

Sundarambal

. . . Petitioner

Vs.

1. The Executive Engineer,
TANGEDCO,
Palladam,
Tiruppur District 641664.

2. The Assistant Executive Engineer,
TANGEDCO,
Palladam,
Tiruppur District 641664.

3. Thangamani

. . . Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other Writ, order or direction in the nature of Writ of Certiorarified Mandamus calling for the records of the second respondent comprised in their order dated 16.07.2020 K.En U.Se.Po/Nagaram/Palladam/Ko Veedhapatti/V132/20-21 quash the



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same as arbitrary, illegal, unconstitutional and consequently forbear the respondents from altering the tariff or effecting name change of the service connection pending disposal of the civil proceedings in O.S.No.37 of 2020 on the file of Sub Court, Palladam.

For Petitioner : Mr.A.Thiyagarajan

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

: Mr.K.S.Karthick Raja for R3.

ORDER

Aggrieved by the order passed by the 2nd respondent, the petitioner is before this Court.

2. The property comprised in SF No.72/2C, Sukkampalayam Village, Palladam Taluk is the ancestral property of the petitioner's late husband, wherein the petitioner is carrying out business by putting up powerlooms. It is the case of the petitioner that her father-in-law namely Kandaswamy Gounder illegally created a settlement deed dated 11.01.2011 in respect of a portion of the ancestral properties and settled the same in favour of his daughters, based on which, a sale deed dated 09.03.2020 was executed in favour of the 3rd respondent who is the grand daughter of



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Kandaswamy Gounder. Aggrieved by the same, the petitioner along with her daughters filed a partition suit in O.S.No.37 of 2020 on the file of the Sub Court, Palladam and the same is pending. Based on the sale deed, the 3rd respondent submitted an application for change of Tariff in respect of the EB connection being utilized for Powerlooms, pursuant to which, the 2nd respondent has changed the tariff vide order dated 16.07.2020. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submits that when the partition suit is pending consideration, merely based on the letter given by the 3rd respondent on the strength of the alleged fraudulent sale deed which was illegally executed in favour of the 3rd respondent, the respondent has passed the present impugned order during the pendency of the suit. Hence, the order of the 2nd respondent is not sustainable and the same needs interference.

4. On the above contention, this Court heard learned standing counsel appearing for Respondents 1 & 2, learned counsel for the 3rd respondent and perused the materials available on record.



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5. Admittedly, there is a dispute between the parties with regard to partition of the aforesaid property for which, a partition suit has been filed in O.S.No.37 of 2020 which is pending consideration. However, the application for change of Tariff of the Electricity Service Connection has been made, during the pendency of the suit. When the suit for partition is pending in respect of the aforesaid property, the respondent authorities cannot entertain the application for change of Tariff, which can be entertained only after the disposal of the suit.

6. In the aforesaid circumstances, the order impugned in this Writ Petition is set aside and this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed. However, the parties are at liberty to work out their remedies subject to the outcome of the suit.

05.06.2023

Index : Yes / No
Internet : Yes / No

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To

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TANGEDCO,
Palladam,
Tiruppur District 641664.
2. The Assistant Executive Engineer,
TANGEDCO,
Palladam,
Tiruppur District 641664.



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M.DHANDAPANI, J

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