



W.P.No.19721 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 30.08.2023**

**CORAM: JUSTICE N.SESHASAYEE**

**WP.No.19721 of 2023**

D.Jayachandran

...Petitioner

-Vs-

1.The Assistant Executive Engineer,  
(Function & Maintenance),  
Tamilnadu Generation and Distribution Corporation,  
(TANGEDCO),  
Metcheri Distribution Circle,  
Salem.

2.The Assistant Engineer,  
(Function & Maintenance),  
Tamilnadu Generation and Distribution Corporation,  
(TANGEDCO), Metcheri East,  
Metcheri, Mettur Taluk,  
Salem.

3.D.Elango

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2<sup>nd</sup> Respondent in க.எண்.உ.பொ/இ&ப/கிழக்குமேச்/கோ.வி/அ.எண்.183/22-23 dated 05.08.2022, quash the same and direct the 2<sup>nd</sup> Respondent to give Electricity Service Connection, forthwith Petitioner's Application dated 04.06.2022 through online.



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W.P.No.19721 of 2023

For Petitioner : Mr.T.Padmanabhan  
For R1 & R2 : Mr.I.Syed Sibghathullah,  
Standing Counsel  
For R3 : Mr.P.Mani

### **ORDER**

The petitioner herein challenges the order of the second respondent dated 05.08.2022, where under the second respondent has refused to grant temporary electricity connection to the petitioner.

2.Heard the learned counsel for the petitioner and Mr.I.Syed Sibghathullah, learned Standing Counsel for respondents 1 and 2, and Mr.P.Mani, learned counsel for the third respondent.

3.A perusal of the impugned proceedings shows that the third respondent has raised an objection to the effect that the house in relation to which the petitioner seeks temporary electricity connection is situated in a property belonging to few co-sharers, and of the few co-sharers, the petitioner is one.



W.P.No.19721 of 2023

4.This Court is of the *prima facie* view that merely because the property is held in co-ownership, that does not *ipso facto* imply one co-sharer can make life difficult for other co-sharers. After all, if the petitioner has put up a residential building in what the third respondent claims as a property he held in co-ownership, then it is obvious that building was allowed to be completed for whatever reasons.

5.Now, this Court understands that there are partition suits pending between the parties, and whether the petitioner is entitled to have the present residential building allotted to him, will be the subject matter of the suit. Inasmuch as the petitioner is not a stranger or alien to the property, his right to have a temporary connection cannot be resisted for the present. At any rate, this has to be decided on the final decree of the civil suit for partition.

6.The third respondent had filed his counter.

7.The principal anxiety of the third respondent is that the petitioner is unilaterally making alterations to the physical features of the property



W.P.No.19721 of 2023

that jointly belongs to 7 of them, including the petitioner and that he has occupied a plum portion of the property abetting the main road and now seeks electricity connection. He also added that the petitioner himself had issued a notice for partition and the present move would sabotage the right of the other co-sharers, since he is in prime portion of the property concerned.

8. There are two parts to the objection made by the third respondent;

- (a) that the petitioner is in occupation of a property, which according to the third respondent is a prime portion of a common property of the petitioner and his co-sharers;
- (b) he seeks issuance of electricity connection to that portion.

9. That the petitioner is in occupation of a specific portion of a common property appears to have been admitted. However, whether the petitioner is entitled to retain possession of the property without affecting the equities of other co-sharers, is a matter that has to be separately considered. For the present, the electricity supply connection can be given to such portion, where the petitioner has put up the construction



W.P.No.19721 of 2023

but, that will be only subject to adjustment of other equities and rights which the petitioner and his co-sharers are jointly entitled to.

10.It is submitted by the learned counsel for the petitioner and the third respondent that the parties are willing to settle the matter through negotiation. Therefore, both of them, or any one of them is required to approach the Mediation Center at Salem.

11.The Writ Petition is disposed of accordingly. No costs.

**30.08.2023**

Index : Yes/No

Internet : Yes/No

Tsg

To

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W.P.No.19721 of 2023

**N.SESHASAYEE, J.,**

Tsg

Order made in  
**W.P.No.19721 of 2023**

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