



W.P.No.29142 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.10.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.29142 of 2023
& WMP.No.28751 of 2023

Khader Basha

... Petitioner

Vs

1. The Chief Engineer,
TANGEDCO,
Chief Engineer' Office,
Kallakurichi.
2. The Superintending Engineer,
Head Accounts Office,
TANGEDCO,
Kallakurichi.
3. The Executive Engineer,
Office of Asst.Executive Engineer,
O & M, TANGEDCO,
Mylamparai,
Sankarapuram.

4. Kalimunissa

... Respondents



W.P.No.29142 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling records of the 3rd respondent pertaining to Ka.No.SAE.PO/E & PA/Sangai/Tho.NU.U.2./Ko.ManuKuThaPo./No.002/2023 dated 11.4.2023 and quash the same further direct the 3rd respondent not to give electricity connection in respect of the property situate in Survey No.134/10, Puthirampattu Village, Sankarapuram Taluk, Kallakurichi District.

For Petitioner : Mr.T.Yogesh

ORDER

This Writ Petition is misconceived. Having heard the submissions of Mr.T.Yogesh, learned counsel for the petitioner, it is clear that there is a private dispute that is pending between the petitioner and the 4th respondent. A suit in O.S.No.94 of 1983 had already been filed for partition and separate possession on the file of the District Munsif Court, Kallakurichi and the same had been withdrawn.

2. A subsequent suit in O.S.No.225 of 2010 on the file of the District Munsif Court, Sankarapuram for partition was filed, in which a preliminary decree had been passed on 30.06.2014 granting shares in respect of the properties barring properties covered under documents D-2, D-3, D-4, D-5 and D-6.



3. The property in question, which is at S.No.134/10, Puthirampattu Village, Sankarapuram Taluk, Kallakurichi District is covered by the aforesaid documents. The preliminary decree is thus adverse to the petitioner herein.

4. The petitioner claims that his father has filed a first appeal, though belatedly. No SR number has been furnished and the Interlocutory application which is mentioned in paragraph 6 of the writ affidavit is of the year 2021. Thus, there is a delay of approximately 6 years in filing the appeal suit.

5. The only reason set forth for filing this Writ Petition instead of pursuing the civil proceedings is that there are 23 respondents in the appeal and it is difficult for the petitioner to serve notice on them.

6. In the Court's view, this is hardly an acceptable reason. That apart, the fact that the preliminary decree, as on date, is adverse to the petitioner would also stand in the way of consideration of any relief to the petitioner.

7. The challenge is as regards order dated 11.04.2023 rejecting the representation of the petitioner seeking a direction to R3 not to grant electricity connection in respect of the property in question. Before the authorities as well, the prayer of the petitioner was similar to the prayer made in this writ petition, i.e., direction to the third respondent not to give electricity connection in respect of the property in question to the 4th respondent, a private party.



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Dr.ANITA SUMANTH, J.

WEB COPY 8. Such a prayer cannot be countenanced in light of the decree passed as early as on 30.06.2014 by the District Munsif, Sankarapuram, which has attained finality as on date. If at all the petitioner believes that he is entitled to any relief, he has to approach the Civil Court challenging the aforesaid decree and obtain relief in accordance with law.

9. This Writ Petition and the connected Miscellaneous Petition are dismissed.

09.10.2023

Index : Yes / No

Speaking order

Neutral Citation: Yes

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