



W.A.No.3418 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:06.07.2023

Delivered on: .07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.3418 of 2019

&

C.M.P.No.21922 of 2019

R.Sathya

.. Appellant

Vs.

1.B.Kutti @ Kuttikrishna

2.The Assistant Engineer
Tamil Nadu Electricity Board
40, 1st main road, Besant Nagar
Chennai-600 041

3.B.Parasuraman

.. Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside the order passed by this Court in W.P.No.20896 of 2013 dated 04.11.2013.

For Appellant : Mr.S.Nedunchezhiyan

For Respondents : Mr.K.Lavan for R1

Mr.L.Jai Venkatesh, Standing Counsel
(TNEB) for R2



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JUDGMENT

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(Judgment of the Court was made by P.B.BALAJI,J.)

This Writ Appeal is at the instance of a third party challenging the order dated 04.11.2013 in W.P.No.20896 of 2013.

2. The Writ Petitioner had originally sought issuance of a Writ of Mandamus to direct the Electricity Board to give a separate connection in the Writ Petitioner's name, for his residence at 6/26, 4th Bharathiyar Street, Lakshmipuram, Thiruvannamipur, Chennai-600 041.

3. The Writ petitioner, stating that he was in physical possession of a thatched house at Old Door No.26 New No.6, Bharathiyar 4th Street, Lakshmipuram, Thiruvannamipur, Chennai-600 041 and he was enjoying the extension of electricity supply from the 2nd respondent in the Writ Petition, i.e, his brother's portion which came to be disconnected because of the unreasonable demand of consumption by his brother, had approached this Court by filing the Writ Petition to provide a separate service connection to his portion.



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4. The learned Single Judge after hearing the petitioner, the Electricity Board as well as the brother of the Writ Petitioner, noticing that there is no dispute with regard to the petitioner being in physical possession of the property to which he claimed separate service connection, allowed the Writ Petition and directed separate electricity service connection to be provided to the petitioner's residence in accordance with law and Rules. The learned single Judge also made it clear that mere grant of separate service connection to the Writ Petitioner would not foreclose the right of parties in the pending Suit.

5. Being aggrieved by the said order of the learned single Judge, the sister of the Writ Petitioner has filed the present Writ Appeal on the grounds that she is the true owner of the subject property under the occupation of the Writ Petitioner and that without arraying her as a party in the Writ Petition, the petitioner has managed to obtain an order behind her back and also suppressing the factum of ownership of land and building being vested with the appellant. It is also the grievance of the appellant that even though the 3rd respondent had brought it to the notice of the Court that the appellant is the owner of the land and building, the learned



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single Judge proceeded to pass orders in favour of the petitioner.

6. Heard Mr.S.Nedunchezhiyan, learned counsel for the appellant and Mr.K.Lavan, learned counsel for the 1st respondent and Mr.L.Jai Venkatesh, Standing Counsel (TNEB) for the 2nd respondent. There is no appearance on behalf of the 3rd respondent.

7. This Court has also perused the order of the learned single Judge as well as the documents filed by the appellant by way of typedset of papers and also a typedset of papers filed by the 1st respondent i.e., the Writ Petitioner.

8. On a reading of the order of the learned Single Judge, it is seen that the rights of the appellant have not been in anyway prejudiced. Infact, the learned single Judge has rightly held that mere factum of granting supply of electricity would not confer title. The learned single judge has directed the Electricity Board to provide a separate electricity connection in view of the admitted factum of physical possession being with the 1st respondent/writ petitioner and also taking into account the regulations of



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the Board with regard to providing service connection for an occupier.

Moreover, the learned single Judge has also taken note of the fact that there is a civil dispute among the family members and the order directing separate electricity supply will be given to 1st respondent/Writ Petitioner would not in anyway foreclose the rights of the parties in the Suit.

9. The learned counsel for the appellant, would however state that she has already filed a suit in O.S.No.5480 of 2022, which is pending on the file of the XXIII, Additional City Civil Court, Chennai where she is seeking to recover possession of the property under the occupation of the 1st respondent/Writ Petitioner. The counsel for the appellant would therefore contend that when the possession of the 1st respondent/Writ Petitioner is unlawful and the appellant having already taken steps to vacate him from the said portion, the order passed by learned single Judge without hearing the appellant is liable to be interfered with and consequently prayed for allowing the Writ Appeal.

10. Per contra, the counsel for the 1st respondent/Writ Petitioner would submit that for the past several years, the 1st respondent has been



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enjoying electricity supply for the premises. Moreover, he would also state that pursuant to the order passed by the learned single Judge, the department has also given a separate service connection to his portion and the order in the Writ Petition has also been complied with.

11. In view of the above and also taking into fact that the order passed in the Writ Petition being complied with, this Court is of the view that no prejudice has been caused to the appellant and her rights have been preserved even in the order of the learned single Judge, no interference is called for in this appeal. The well reasoned order of the learned single Judge does not warrant interference. Consequently, Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)
.07.2023

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No



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To
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The Assistant Engineer
Tamil Nadu Electricity Board
40, 1st main road, Besant Nagar
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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI,J

(kpr)

Pre-delivery judgment in
W.A.No.3418 of 2019

.07.2023