



WEB COPY



W.P. No.26102 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.26102 of 2018

and

W.M.P. No.30323 of 2018

C.Veeran

...Petitioner

VS.

1. The Chairman,
TNEB, Mount Road,
Chennai – 2.

2. The Executive Engineer,
TANGEDCO (O & M),
Thirukoilur Circle,
Thirukoilur,
Villupuram District.

3. The Junior Engineer,
TANGEDCO (O & M),
Thirukoilur Circle,
Thirukoilur,
Villupuram District.

4. P.Selvakumar

* R4 impleaded vide order dt. 25.01.2019

made in WMP No.35054 of 2018

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the proceedings in Emepo/Epa/Nagaram/Thiru/Ko/Kattu/A164/2018 and dated 17.09.2018 on the file of the 3rd respondent and to quash the same as illegal and without jurisdiction.

For petitioner : Mr.V. Raghavachari, SC

For respondents : Ms. Daniel Mary, Standing Counsel

ORDER

This writ petition has been filed to quash the Proceedings No.Emepo/Epa/Nagaram/Thiru/Ko/Kattu/A164/2018 and dated 17.09.2018 on the file of the 3rd respondent.

2. The case of the petitioner is that, he is in enjoyment of the property in Survey No.165/3, Kattupaiyur Village, Thirukoilur. It is averred that his ancestors have dug the Well in the subject land and the same is in existence for over a period of six decades. It is his case that in the year 2001, the authorities granted permission for installation of electric pumpset in the subject land. Suddenly, due to an alleged complaint given by the 4th respondent, without affording an opportunity of hearing, he has been called upon to secure “No Objection Certificate” from the revenue authorities and thereby the petitioner is threatened with



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disconnection of electricity supply. It is his case that the Well is not a public Well and it belongs to him and the electricity connection is used for drawing water from the Well in Survey No.165/3. Aggrieved over the impugned order, dated 17.09.2018, this writ petition has been filed.

3. Learned counsel for the petitioner submits that the petitioner is doing agricultural activities in the subject land. He further submits that based on a compliant, the respondents have conducted field inspection which resulted in passing of the impugned order, calling upon the petitioner to produce “No Objection Certificate” from the authorities concerned for obtaining electricity connection for drawing water from the subject Well.

4. In support of his contentions, he placed reliance on the following decisions of this Court :-

i) C.B.M. College, rep. By its Secretary vs. The assistant Electrical Engineer reported in 2011 SCC Online Mad 1966.

ii) T.M. Prakash vs. The District Collector reported in 2013 (6) CTC 849.

5. Learned counsel further drew the attention of this Court to the case of *C.B.M. College*, (supra), wherein it has been held that there is



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no provision under the Electricity Act and the Tamil Nadu Electricity Distribution Code with regard to disconnection of electricity service connection with retrospective effect and therefore, the impugned order passed by the respondents is illegal and that too, without authority under law, they conducted field inspection, which is clearly not under their purview.

6. Furthermore, referring to the decision in **T.M. Prakash's** case, which stands on similar footing, the respondents therein were directed to consider the case of the petitioners, who were in occupation of Government Poromoboke land and further directed to provide electricity connection based on petitioners applications, along with necessary undertaking and indemnity Bond, but in the case on hand, the subject land belongs to the petitioner and is not a Government Poromoboke.

7. Finally, he submitted that with a mala fide intention, the respondents have issued the impugned proceedings and due to threat of electricity disconnection, he prays for quashing of the impugned proceedings.

8. Per contra, Ms.Daniel Mary, learned Standing Counsel for the respondents placed her submissions based on the counter, stating that, the petitioner has wrongly mentioned the Survey Field as S.F.No.165/3



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instead of S.F. No.161/3 in the affidavit filed in support of this writ petition. Also, she drew the attention of this Court that based on a representation submitted by the 4th respondent, that too after issuance of proper notice to the petitioner and after considering his explanation, the respondents have proceeded further and hence, she vehemently opposed the submission made by the learned counsel for the petitioner with regard to granting an opportunity.

9. Adding further to her submission, she drew the attention of this Court to paragraph Nos.9 & 10 of the Counter Affidavit that the Well in S. No.161/3 is located in a Panchayat land, which is classified as Government Poramboke land as per revenue records. But the said fact has not been disclosed by the learned counsel for the petitioner.

10. More so, the judgments relied upon by the learned counsel for the petitioner is not applicable to the issue involved in this writ petition. Accordingly, she submits that the order passed by the 3rd respondent is a valid and legally sustainable one and thus, it calls for no interference of this Court and prays for dismissal of this writ petition.

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



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12. A bare reading of the affidavit filed in support of this writ petition as well as the counter affidavit filed by the respondents reveal that the Survey Number mentioned in the subject land differ from one another. A perusal further reveals that the petitioner got service connection by paying necessary charges, whereas, it is the contention of the respondents that the petitioner paid the requisite charges for obtaining service connection in respect of S.F. No.161/5A, but it is alleged that he extended the supply to the land comprised in S.F. No.161/3, which is a poramboke land as per “A” Register as well as FMB Sketch.

13. It is not in dispute that based on a complaint lodged by the 4th respondent, the respondent conducted field inspection. Though it is contended by the learned counsel for the petitioner that the respondents are not the competent authority to conduct field inspection with regard to the classification of lands, which is vested with the revenue authorities, only after due notice and on receipt of explanation from the petitioner, the 3rd respondent issued the impugned proceedings insisting the petitioner to submit “No Objection Certificate” from the revenue authorities for obtaining service connection in the subject land, as the land in dispute is stated to be Government Poromoboake land.

14. Further, the learned counsel for the petitioner vehemently



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argued in respect of the second issue involved that the subject land has been utilised by the petitioner for agricultural purpose and enjoying the property over several decades and thus, the impugned proceedings is bad in law. However, the said issue cannot be gone into by this Court, as it pertains to the petitioner establishing his title over the subject land, which is not within the jurisdiction of this Court under Article 226. Only after the petitioner establishes his right over the subject lands, could the issue be looked into by this Court.

15. Further, the decision of this Court in the case of ***T.M. Prakash vs. The District Collector reported in 2013 (6) CTC 849*** is with regard to threat of eviction at any time as well as disconnection of electricity supplied to occupiers of Government Poramboke lands, however, in the instant case, the dispute is with regard to extension of electricity service connection made by the petitioner for the purpose of drawing water from Well, which land belongs to Village Panchayat. In the above backdrop, this Court does not find any infirmity in the impugned Proceedings passed by the 3rd respondent and, therefore, is not inclined to interfere with the same.

16. In view of the above, this Court, disposes of this writ petition



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granting liberty to the petitioner to place appropriate materials with regard to his title before the respondents/ electricity board, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said documents, if any, the respondents shall pass orders on merits and in accordance with law, within a period of four weeks thereafter, after providing an opportunity of hearing to the petitioner as well as any aggrieved party. Liberty is also granted to the petitioner to establish his title to the property in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral citation case : Yes / No
vsi2

M.DHANDAPANI, J.



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vsi2

To

1. The Chairman,
TNEB,
Mount Road,
Chennai – 2.

2. The Executive Engineer,
TANGEDCO (O & M),
Thirukoilur Circle,
Thirukoilur,
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