



W.P. No.34673 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.34673 of 2018

and

W.M.P. Nos.40215 and 40218 of 2018

Selvakumar

... Petitioner

Vs

1. The Thasildhar,
Taluk Office,
Thirukazhukundram Taluk,
Kancheepuram District.

2. The Executive Engineer,
Operation & Management,
Chengalpattu,
Kancheepuram District.

3. The Assistant Engineer,
Operation & Management / Town
TANGEDCO,
Thirukalukundram,
Kancheepuram District.

4. T.R. Sekar

... Respondents

* R4 impleaded as per Court order
dated 29.03.2023 in W.M.P. No.6256 of 2019



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent proceeding letter No.UPo/Epa/City/Thi.Ka.Kundram/Ko.Kattu/A en 062/18, dated 16.11.2018 and letter No.UPo/EPa/City/Thi.Ka.Kundram/Ko.Kattu/A en 069/2018, dated 28.11.2018 and Upo/EPa/City/Thi.Ka.Kundram/Ko.kattu A en 075/2018 dated 5.12.2018 and to quash the same and consequently to direct the 3rd respondent not to disturb service connection (Service Connection No.:507-001-1409) provided to petitioner shop at Door No.247/1, Sadras road, Thirukkalukkundram, Kancheepuram District in Old survey No. :48/8-A, New Survey No:645/1.

For Petitioner	: Mr.R. Thirumoorthy
For Respondents	: Mr.U.Baranidharan, Addl. Govt. Pleader for R1 Mr.L. Jaivenkatesh, Standing counsel for R2 & R3 Mr.R. Anandha Babu for R4

ORDER

Challenging the impugned notices, dated 16.11.2018, 28.11.2018 and dated 5.12.2018, issued by the 3rd respondent, this writ petition has been filed by the petitioner.



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2. It is stated in the affidavit filed in support of this writ petition that the petitioner hails from Thirukkalikundram and doing Transport business for the past 30 years. While so, to carry on his business, he requires electricity service connection and obtained the same by paying necessary charges. It is the case of the petitioner that the land in Old Survey No.48/8-A, New Survey No.645/1 is classified as Grama Natham, as per revenue records and hence, they are allowed to occupy the same. That being so, notice was issued by the 3rd respondent dated 16.11.2018 stating that he received a communication from the 1st respondent questioning the genuineness of documents produced by the petitioner for obtaining electricity service connection and directed him to send reply within a period of seven days. Though he sent reply, without considering the same, the 3rd respondent vide his second communication dated 28.11.2018 extended the time for further three days to produce necessary documents, failing which, there will be disconnection in electricity supply. Due to threat, the petitioner immediately submitted his explanation along with necessary documents to the 1st and 3rd respondents to substantiate his claim. It is averred that due to a family animosity with his relative, who levelled



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allegations against him with an ill-motive, the same was acted upon by the respondents, which resulted in the disconnection of service connection by issuing the impugned notice dated 05.12.2018. It is further stated that there are totally 9 houses and 16 shops located in Survey No.645/1 and except the service connection provided to the petitioner's shop, no other persons were disturbed.

3. It is the further case of the petitioner, that the allegation of the respondents is that the subject land is not classified as Grama Natham and it belongs to Gangai Amman Temple. It is further alleged that the petitioner has produced a Certificate issued by the Tahsildar with regard to the classification of land. It is the further case of the petitioner that the electricity service connection of the petitioner alone has been disconnected while the other shop owners in the said Survey number are enjoying the same, which shows the disparity meter out by the respondents towards the petitioner, which has severely prejudiced the petitioner. Aggrieved over the said action on the part of the respondents, this writ petition has been filed for issuance of appropriate directions.



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4. Learned counsel for the petitioner submits that the official respondents acted based on a complaint given by the private respondent, which is due to family dispute and thereby the 3rd respondent issued impugned notices without considering the petitioner's explanations, which have been submitted earlier on 22.11.2018 and 27.11.2018 along with the Certificate issued by the authorities concerned in respect of classification of the said land. He further argued that the petitioner is in occupation of the subject land for more than 30 years and he has been regularly paying electricity bills. Further, the official respondents disconnected the electricity service connection pertains to the petitioner alone, though there are shops owned by others in same Survey Number.

5. Learned counsel for the petitioner drew the attention of this Court to a decision of this Court in the case of *A. Muthusamy and others Vs. The Assistant Engineer, reported in 2009 (4) CTC 606* more particularly to paragraph Nos.6, 8 and 9 and referring to the provisions of Tamil Nadu Electricity Act, 2003, submitted that even an occupier is entitled to get electricity service connection and therefore, the impugned orders passed by



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the 3rd respondent is illegal and unsustainable in law. Accordingly, he prays before this Court for allowing the writ petition.

6. Learned Additional Government Pleader appearing for the 1st respondent submitted that the subject land belongs to Gangai Amman Temple and the petitioner has been called upon by the 3rd respondent to produce documents to substantiate his claim, whereas the petitioner having to satisfy the respondent and merely based on the Certificate issued by the then Tahsildar is unjustifiable claims his right, which was rightly considered by the respondent to disconnect the electricity supply. Hence, he prays for dismissal of this writ petition.

7. Mr.L. Jaivenkatesh, learned Standing counsel appearing for the respondents 2 and 3 submitted that based on the certificate, dated 23.06.2017 issued by the Tahsildar, the petitioner has got electricity service connection. Later, owing to complaint received from the private respondent, and based on enquiry, the 1st respondent sent a communication stating that certificate issued by the then Tahsildar was cancelled. He further submitted that as per revenue records, the said land in Survey No.48/8A, 48/8B, 48/9B, Survey No.645/1 and 645 /2 belong to Gangai



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Amman Temple, and the petitioner having no right or title to the said land, could be branded only to be an encroacher and would not be entitled to the service connection. Further, he submitted that due to eviction notice issued to the petitioner earlier, he filed writ petition before this Court, which was withdrawn subsequently, but the same has not been disclosed by him. Hence, he vehemently opposed for quashing of the impugned orders.

8. This Court heard the arguments advanced by the learned counsel on either sides and perused the materials placed on record.

9. The facts in the case are not in dispute. It is not in dispute that before disconnecting electricity service connection, the petitioner has been given sufficient opportunities. Even though opportunities were given, it is crystal clear that the petitioner has not produced documents with regard to his right and title over the property. Further, the classification of land itself is in dispute. Further, it is to be pointed out that the mere fact that the petitioner has been in occupation of the land for more than three decades and has been paying the electricity bills cannot be a ground to confer title on the petitioner. It is claimed by the petitioner that as per “A” register, the said land is classified as Grama Natham, whereas, respondents have made



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submissions that the said land belongs to Gangai Amman Temple, as per revenue records. This clearly shows that there is a dispute with regard to the classification of the lands.

10. Though the petitioner has placed reliance on *Muthusamy's case*, however, the said decision would not in any way further the case of the petitioner, as the decision arrived by this Court in *A. Muthusamy's case*, relates to occupiers/encroachers of the land. However, the 3rd respondent had called upon the petitioner to produce the documents and in such a scenario, it is the duty of the petitioner to establish his title/classification of the land and without doing so, approaching this Court by way of filing writ petition under Article 226 of the Constitution of India is not maintainable. Hence, the relief sought for in this writ petition deserves to be dismissed. Accordingly, this writ petition stands dismissed.

11. However, it is always open to the petitioner to seek for new electricity service connection from the authorities concerned by submitting the relevant documents as sought for by respondents 1 and 2. Insofar as the other persons, who are in occupation of the said premises, it is the duty of the official respondents to evict the encroachers from the said land by



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following the due process of law. The said action shall be taken up by the respondents and completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

29.03.2023

Note : Registry is directed to issue order copy after carrying out necessary amendments.

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2



WEB COPY



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M.DHANDAPANI, J.

vsi2

To

1. The Thasildhar,
Taluk Office,
Thirukazhukundram Taluk,
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2. The Executive Engineer,
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