



WA(MD)No.770 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

WA .(MD)No.770 of 2013
and M.P.Nos.2 and 3 of 2013

K.Subramani

.. Appellant

Vs.

1.Kottiyammal

2.The Executive Engineer
Tamilnadu Electricity Generation and Distribution Corporation
(TANGEDCO), Coimbatore Road, Karur District

3.The Assistant Engineer,
Operation and Maintenance (South)
Tamilnadu Electricity Generation and Distribution Corporation
(TANGEDCO) Rayanur, Thaanthondrimalai
Karur District.

.. Respondents

Appeal is filed under Clause 15 of Letters Patent Act against the order dated 29.11.2012 passed by this Court in WP(MD) No.15265 of 2012.



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For Appellants : Mr.R.Govindaraj
For Respondents : Mr.S.Deenadayalan for
R2&R3
R1 No appearance

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This writ appeal is directed against the order passed by the writ Court dated 29.11.2012 in WP(MD) No.15265 of 2012.

2. The first respondent one Kottiyammal was the writ petitioner, who filed the writ petition for mandamus seeking electricity service connection for agricultural purpose in S.No.26937, Paganatham Village, Karur Taluk and District.

3. The reason for the first respondent to approach the Court to seek for a mandamus was that the son of the first respondent one Kottiyappan seems to have opposed for giving electricity service connection as sought for by the first respondent.

4. The learned Judge, who heard the matter, found that though a suit had been filed by the said Kottiyappan, which was decided in favour of the first respondent, against which, Kottiyappan did not file any appeal and



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therefore, the order passed by the trial Court has become final. Hence, there is no further impediment to extend the electricity service connection as sought for by the first respondent, accordingly, the mandamus was issued vide order dated 29.11.2012.

5. Challenging the same, the present writ appeal has been filed by a third party, namely, K.Subramani, who is none other than the husband of the first respondent.

6. The learned counsel for the appellant would submit that insofar as the property, wherein electricity service connection was sought for, where mandamus was issued by the writ Court is concerned, it belongs to the appellant and in respect of the partition among the family members consisting of the appellant, first respondent as well as their son Kottiyappan, suit had been filed by the appellant and that is pending and therefore, at this juncture, without making any objection on the part of the appellant, if the electricity service connection is directed to be given as sought for by the first respondent, of course, pursuant to the direction issued by the writ Court, that will have some impact on the claim made by the appellant before



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the trial Court, where the suit is pending. Therefore, to protect his interest, he filed the present appeal challenging the order passed by the writ Court.

7. On the other hand, the learned standing counsel for the 2nd and 3rd respondents, on instructions, would submit that even though the writ Court allowed the writ petition by order dated 29.11.2012, subsequently, namely, the other formalities, since were not complied with by the first respondent, the service connection could not be extended to her and in the meanwhile, since the third party appellant had preferred this writ appeal, which had been entertained and pending for all these years, the corporation could not proceed further. Therefore, the resultant situation is that there has been no electricity service connection extended to the first respondent as directed by the writ Court.

8. We have considered the said submissions made by both sides and perused the materials available on record.

9. Assuming that the third party appellant, who is none other than the husband of the first respondent had already approached the trial Court by



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filing a suit for partition among the family members consisting of the appellant, the first respondent as well as their son, it is for the trial Court to take a decision on merits. Merely because, the electricity service connection is extended as sought for by the first respondent, of course pursuant to the direction issued by the writ Court, that would not confer any right or title in favour of the first respondent. Therefore, the appellant need not have any apprehension that merely because such service connection is extended to the first respondent that will have the impact on the plea raised by the appellant before the civil Court for partition including the property in question, to which, the service connection is sought to be given.

10. Therefore, the interest of the appellant also would be protected, but at the same time, we feel that there is absolutely no infirmity in the order passed by the writ Court through the impugned order directing the TANGEDCO to give service connection as sought for by the first respondent.

11. In that view of the matter, this Court is inclined to dispose of this writ appeal with the following:



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“that the order impugned is to be sustained. Accordingly, it is sustained. Therefore, the writ appeal fails hence, it is to be dismissed, accordingly, dismissed. As a sequel, there shall be a direction to the respondents 2 and 3 to extend the service connection as directed by the writ Court to the first respondent, if the first respondent fulfils other conditions, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that merely because service connection is being extended as sought for by the first respondent pursuant to the order of the writ Court as confirmed by this order, that would not confer any right or title over the property in question against the appellant or any other person, who claims ownership over the property, particularly in the context of the partition suit filed by the appellant pending before the civil Court.”

No costs. consequently connected Miscellaneous Petitions are closed.

(R.S.K.,J.) (K.K.R.K.,J.)
07.06.2023

Index : Yes/No

Internet : Yes

RR



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and
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RR

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