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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.3269 of 2022
and
W.M.P.(MD)No.2871 of 2022

P.Banumathi

... Petitioner

vs.

1.The Assistant Engineer (Distribution),
TANGEDCO, Meignanapuram,
Thoothukudi District.

2.The Executive Engineer (Distribution),
TANGEDCO, Tiruchendur.

3.Tahsildar,
Sathankulam Taluk, Thoothukudi District.

4.Raman

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order of the first respondent, dated 25.11.2021 passed in க.எண்.உமிபொ/வி/மெஞ்சை/கோ.கட்டு/அ.எண்.427/2021 on the file of the first respondent and to quash the same.



For Petitioner :Mr.G.Prabhu Rajadurai
For R1 and R2 :Mr.S.Deenadhayalan
For R3 :Mr.J.Ashok
Additional Government Pleader
For R4 :Mr.S.M.A.Jinnah

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to the impugned order of the first respondent, dated 25.11.2021 in க.எண்.உ.மிபொ/வி/மெஞ்ஞை/கோ.கட்டு/அ.எண். 427/2021 and to quash the same.

2.Heard Mr.G.Prabhu Rajadurai, learned Counsel for the petitioner, Mr.S.Deenadhayalan, learned Standing Counsel for the first and second respondents, Mr.J.Ashok, learned Additional Government Pleader for the third respondent and Mr.S.M.A.Jinnah, learned Counsel for the fourth respondent.

3.In the affidavit filed in support of this Writ Petition, it had been stated that the petitioner had purchased land measuring 10 cents in



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Naharai Pannamnarai Village in S.No.40/19, 40/23 and 40/31. It is stated that the land can be accessed from the main road through the property in S.No.583/17, which according to the petitioner is classified as a street in the revenue records. The petitioner had also constructed a house in the property, which she had purchased and had applied for electricity connection. It is stated that the first respondent had passed the impugned order, whereby, the first respondent had stated that the land in S.No. 583/17 actually belongs to Sakthi Amman Temple, and is not a pathway, the Writ Petition has been filed questioning the said order.

4. Notices had been directed and the fourth respondent had also filed a counter affidavit. In the counter affidavit filed by the fourth respondent, it had been stated that the fourth respondent is a Dharmakarthha of Sakthi Amman Thirukovil Deity at Pannambarai Village, Sathankulam Taluk. It is stated that the property totally measuring 29 cents of land in S.No.44, originally belonged to one Muthabaranam, who had sold the property in the year 1929 and thereafter, the property had devolved on the legal heirs of the purchaser and thereafter, after further transactions, the property had finally been



allotted to one Muthiah Naar.

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5.It is stated that in 7 cents of land, the temple was reconstructed by the said Muthiah Nadar in the year 2016 and the balance of 6 cents was left for common usage of himself/Muthiah Nadar, the temple and the nephew of Muthiah Nadar. It is stated that the six cents, which is used as pathway is a property which exclusively belonged to the aforementioned person. It is stated that the petitioner has no manner or right or title over the said property. It is also stated that a suit had been filed and is pending in O.S.No.56 of 2021 before the Sub Court, at Tiruchendur. It is very specifically stated that the property is a temple property.

6.It is thus seen that the fourth respondent had resisted putting up of electricity poles or drawing of line over the said property. The petitioner will have to work out her remedy in the civil Court and thereafter, only can seek necessary orders from the 1-3 respondents for grant of electricity service connection. It is also seen that a suit is already pending. If the petitioner is a party to the suit, she may contest the suit and if she is not a party, if she is interested, then she may file



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necessary application to implead herself as a party to the suit. It is the result the suit which can decide the right, title and interest of all the contesting parties and that decision will have a bearing on the decision of the 1-3 respondents to provide or not to provide electricity connection through this particular pathway to the house of the petitioner herein.

7. In view of this particular fact, no orders can be passed. The Writ Petition stands dismissed. No costs. It is made clear that though the Writ Petition is dismissed, the suit should be decided in accordance with the pleadings and evidence adduced before the said Court. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes/No
cmr

11.04.2023

To

Tahsildar,
Sathankulam Taluk, Thoothukudi District.



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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.3269 of 2022

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