



W.P.(MD)No.9073 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.10.2023

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.9073 of 2021

V.M.Sivalingam

.. Petitioner

Versus

1.The Assistant Engineer
(Distribution), TANGEDCO,
Tiruchendur,
Tuticorin District.

2.The Executive Officer,
Tiruchendur Special Grade Town Panchayat,
Tiruchendur, Tuticorin District.

3.Soundaraselvi, D/o.Athilingam

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to disconnect the electricity connection in Survey No.1513/12 vide Patta No.565 at Santhana Mariamman Kovil Street, Tiruchendur Special Grade Town Panchayat, Thiruchendur, Thoothukudi District, in which unauthorized asbestos building construction put by the third respondent, by considering the petitioner's representation, dated 01.03.2021.



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For Petitioner : Mr.D.S.Haroon Rasheed
For R1 : Mr.S.Deenadhayan
Standing Counsel
For R3 : Mr.G.Bhagavath Singh

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the first respondent to disconnect the electricity service connection that was given in favour of the third respondent, by considering the representation made by the petitioner on 01.03.2021.

2. Heard the learned counsel appearing for the parties.

3. The learned Standing Counsel appearing on behalf of the first respondent submitted that the electricity service connection was given in favour of the third respondent pursuant to the order passed by this Court in W.P.(MD)No.14632 of 2017, dated 05.08.2020. The relevant portions in the said order are extracted hereunder:-

"2. The petitioner was granted service connection for the petition mentioned property. The property tax assessment in respect of the said property was cancelled by the Local Body vide proceedings, dated 29.06.2017. Since the property tax



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assessment in respect of the said property was cancelled, the impugned order, dated 20.07.2017 came to be issued. Questioning the impugned communication, this writ petition was filed and an interim order of stay was granted on 04.08.2017. Alleging that in breach of the interim order of stay, the service connection was disconnected, contempt petition in CONT.P. (MD)No.1799 of 2017 came to be filed. The contemnor contends that the disconnection was effected on 02.08.2017 and the interim order came to be passed only two days later. When the contempt petition was listed before me, I suggested that the main writ petition itself could be taken up for disposal.

3. The objection raised by the learned Standing Counsel for the Electricity Board is that the petitioner had applied for electricity connection based on certain documents and that the electricity connection was provided in terms of Section 43 of the Electricity Act, 2013. She would emphasis the fact that the electricity connection was not provided under Rule 27 of the Distribution Code.

4. I am not impressed by the said objection. It is not the case of the respondents that the land, on which the building has been constructed and for which the electricity connection had been given, is a poromboke land. It is not the case of the respondents that there is any rival claim. I understand that the



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assessment of property tax came to be cancelled by the Local Body. But, on that score the electricity connection ought not to have been disconnected. The dispute between the Local Body and the writ petitioner need not have been taken cognizance by the first respondent. Electricity supply is a fundamental amenity.

5. I am pained to note that even though an interim order of stay was granted by the learned Judge of this Court, the same has been casually ignored by the first respondent. The electricity connection was given to the petitioner way back in the year 2015. For more than two years, she was enjoying the same. The first respondent could have effected disconnection, if the petitioner had defaulted in paying the consumption charges or she had conducted any breach of the provisions of law. The cancellation of the tax assessment could not have been a relevant ground for effecting disconnection. The impugned order has been passed in an arbitrary manner. It has not taken note of the relevant aspect. When there is no rival claim regarding the title of the land, the first respondent ought not to have acted on the proceedings of the second respondent, dated 29.06.2017.

6. The learned counsel for the petitioner informs me that based on the order dated 29.06.2017, subsequent proceeding



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was issued by the Local Body on 29.05.2018. The same was successfully challenged by the petitioner in W.P.(MD)No.14629 of 2018. The learned counsel for the petitioner informs me that the Keela Eral Nadar Uravinmurai Sangam, the third respondent in W.P.(MD)No.14629 of 2018, was relegated to move the Jurisdictional Civil Court. But, till date the Civil Court has not been approached. In the order passed by the first respondent, reference has been made only to the order dated 29.06.2017. Therefore, the same also cannot be improved upon at this stage.

7. In any event, taking note of the subsequent writ proceedings initiated by the writ petitioner, the order impugned in the writ petition is quashed and the Writ Petition is allowed. In view of the same, the contempt petition also stands closed as nothing survives for further adjudication. The first respondent is directed to effect reconnection forthwith. The petitioner undertakes to comply with the usual and routine administrative formalities that may be required to be complied with in this regard. No costs. Consequently, connected miscellaneous petitions are closed."

4. In view of the above, there is no scope for directing the first respondent to consider the representation made by the petitioner, since



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the electricity service connection was given in favour of the third respondent pursuant to the order passed by this Court. In view of the same, the relief sought for by the petitioner cannot be granted by this Court. Accordingly, this Writ Petition stands dismissed. No costs.

NCC : Yes/No
Index : Yes/No
smn2

17.10.2023

To

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N.ANAND VENKATESH, J.

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