



W.P.(MD) No.10592 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.10592 of 2020
and
W.M.P.(MD) No.12436 of 2020**

K.Selvam

... Petitioner

/vs./

1.The Executive Engineer,
Tamil Nadu Generation and Distribution
Company (TANGEDCO),
Tamil Nadu Electricity Board,
Madurai Road,
Usilampatti, Madurai District.

2.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Company (TANGEDCO),
Tamil Nadu Electricity Board,
Checkkanoorani,
A.Kokkulam Revenue Village,
Thirumangalam Taluk,
Madurai District.

... Respondents



W.P.(MD) No.10592 of 2020

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in pertaining to the impugned order of the 2nd respondent vide his proceedings in Vu.Mi. Po/Pa/Sekka/Va.Aa/Ko.Pathil/A.No. 118/20 dated 23.07.2020 and quash the same as illegal and consequently directing the respondents to provide change over switch permission for S.C.No. 41 by following the procedure of law.

For Petitioner : Mr.T.Vadivelan

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

The writ petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India seeking for the issue of a Writ of a Certiorarified Mandamus calling for the records pertaining to the impugned order of the second respondent in Vu.Mi.Po/Pa/Sekka/Va.Aa/Ko.Pathil/A.No.118/20 dated 23.07.2020, quashing the same and directing the respondents to provide change over switch permission for S.C.No. 41 by following the procedure of law.

2.The brief facts are as follows:-



W.P.(MD) No.10592 of 2020

WEB COPY

3.It is the case of the petitioner that the property comprised in S.F.Nos. 198/8B and 198/8D, measuring an extent of 11 and 38 cents and bearing patta Nos.1247 and 2884 respectively at K.Puliyankulam Revenue Village, Thirumangalam Taluk, Madurai District was allotted to the share of his father, Karichsamy.

4.It is his further case that S.F.No.198 originally belonged to one Periyamaya Thevar and it had a Well and 3HP electricity connection standing in the name of Periyamaya Thevar. He had three sons including the petitioner's father. After the demise of Periyamaya Thevar, the legal heirs succeeded to his estate and in the year 1986, they had partitioned the property and the petitioner was allotted the aforesaid properties. Despite the partition, some of the share holders with *mala fide* intention had filed a suit for partition, which is pending and which has been contested by the petitioner.

5.Due to the failure of monsoon and since no water was available in the Well, the petitioner had dug up a bore well in his land and applied for grant of permission for a change over switch in S.C.No.41. The second respondent did not



W.P.(MD) No.10592 of 2020

WEB COPY

respond to the grievance and had not followed the procedure contemplated under S.I.No.6 of the Tamil Nadu Electricity Board Manual with regard to the change over switch. The respondents insisted on the petitioner for getting No Objection letter from the share holders, which he was not able to obtain. He had, however, submitted that he was ready to produce an indemnity bond. Even this request was not heeded to, the petitioner had issued a legal notice dated 03.07.2020 to the respondents calling upon them to provide the change over switch connection. However, the second respondent had passed the impugned order directing the petitioner to obtain No Objection Certificate from the other share holders. Aggrieved by the same, the petitioner is before this Court.

6.The learned counsel for the petitioner would submit that the petitioner is ready to give the indemnity bond and also there is no impediment for the respondents to grant him the change over switch connection.

7.On the contrary, the learned Standing Counsel for the respondents would submit that there is serious contest with reference to the right of the petitioner, since the suit for partition is now pending disposal and therefore, at this juncture,



W.P.(MD) No.10592 of 2020

WEB COPY

the electricity connection could not be granted without obtaining No Objection from the other share holders. He would further submit that the respondents have no objection to grant change over switch connection to the petitioner. However, since there is a civil suit pending, it would be in the interest of all the parties concerned, No Objection Certificate was given.

8.Heard the learned counsels appearing on either side.

9.As rightly pointed out by the learned Standing Counsel for the respondents, the parties are at loggerhead with reference to the sharing of the properties, since there is civil suit for partition now pending despite the fact that the petitioner would submit that there was a partition in the year 1986. Therefore, there is no definiteness with reference to the share of each party by granting the change over switch connection without obtaining No Objection letter from the other sharers. The petitioner might tried to assert his right to the property to avoid such confusion that the respondents have rightly requested the petitioner to obtain No Objection letter from the other sharers. The fact that the petitioner is unable to obtain No Objection letter clearly indicates that there is serious contest with



WEB COPY



W.P.(MD) No.10592 of 2020

P.T.ASHA, J.

mm

reference to the right to the property in question. In these circumstances, I see no reason to interfere with the orders passed by the second respondent.

10.In the result, the Writ Petition is dismissed. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

03.04.2023

mm

W.P.(MD) No.10592 of 2020