



W.A(MD)No.612 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.612 of 2023
and
C.M.P(MD)No.5732 of 2023**

- 1.The Superintending Engineer(Distribution),
Thoothukudi Electricity Distribution Circle,
Thoothukudi.
 - 2.The Executive Engineer,(Distribution),
Thiruchendur Electricity Distribution Circle,
Thiruchendur.
- ... Appellants/Respondents

-vs-

G.Joseph Rajesh Pandiyan ... Respondent/Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the judgment made in W.P(MD)No.21586 of 2022, dated 22.02.2023 and allow the writ appeal.

For Appellant : Mr.S.Deenadhayan



W.A(MD)No.612 of 2023

JUDGMENT

WEB COPY

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Being aggrieved by the order of the Writ Court, dated 22.02.2023 made in W.P(MD)No.21586 of 2022, the appellant Corporation has filed this writ appeal.

2. We do not find any reason to entertain this writ appeal. Admittedly, the father of the writ petitioner has transferred 15 cents of land, in which an ice factory is located, to his elder son even in February 2002. Subsequently, there were certain malpractices and theft of energy that had happened in respect of service connection that was in enjoyment of the elder brother of the petitioner. The said portion was sub-divided as Survey No.30/2A. A portion of the land out of the remaining extent of land which is continued to be owned by the father of the writ petitioner, was settled in the year 2014 in favour of the writ petitioner, for which, he sought for new electricity connection. That is sought to be denied by the appellants on the ground that malpractice had happened in the same premises.

3. We are unable to subscribe to the said submission of the learned counsel for the appellants. When it is admitted that the land with the ice



W.A(MD)No.612 of 2023

factory for which service connection was provided was transferred to the brother of the writ petitioner even before the malpractice happened, the liability of the brother of the writ petitioner, who had committed the theft cannot be fastened on the writ petitioner on the ground that the land settled on the petitioner also happened to be owned by the father of the writ petitioner.

4. Though the learned counsel would make a very serious attempt to contend that because the land was in the same survey number, it should be treated as same premises. We are unable to accept the said submission of the learned counsel. The word “premises” means “a building and land near to that a business owns or uses”. It cannot include vast extent of land in and around the building. The business of ice factory owned by the petitioner's brother is only 15 cents of land and the building. Therefore, the remaining 1 acre and 95 cents cannot be termed as “premises” so as to make it also a premises within the meaning of Regulation 17(9)(A) of the Tamil Nadu Electricity Supply Code more particularly when it is not owned by the same person.

5. Therefore, it cannot be said that since the entire extent of 2 acres and 10 cents formed part of one survey number, the same formed part of the same premises. We therefore agree with the Writ Court in its



W.A(MD)No.612 of 2023

interpretation of Regulation 17(9)(A) to the effect that the liability must arise out of the same service connection or service connection provided to the same premises. Here is a case that where the petitioner's father settled the premises on the petitioner's brother even in February 2002 and the theft had happened only from March 2002. Therefore, the appellants cannot fasten the liability on the writ petitioner and invoke the Regulation 17(9)(A), to deny the service connection to the writ petitioner. Though criminal proceedings were initiated against the father of the writ petitioner, also he was exonerated from the criminal proceedings on the ground that he was not the owner of the property at the relevant point of time.

6. Therefore, the writ appeal fails and it is accordingly dismissed.
No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

01.06.2023

NCC :Yes/No

Index :Yes/No

PM



WEB COPY



W.A(MD)No.612 of 2023

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

pm

W.A(MD)No.612 of 2023

01.06.2023