



W.P.(MD)No.16410 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16410 of 2022

and

W.M.P.(MD)Nos.11855 and 11856 of 2022

N.Pasupathi

... Petitioner

vs.

1.The Director,
Generation, Tamil Nadu Generation and Distribution Corporation Ltd,
No.144, Anna Salai, Chennai - 600 002.

2.The Chief Engineer,
(Non Conventional Energy Sources),
Tamil Nadu Generation and Distribution Corporation Ltd,
No.144, Anna Salai, Chennai - 600 002.

3.The Superintending Engineer,
(Non Conventional Energy Sources),
Tamil Nadu Generation and Distribution Corporation Ltd,
Tirunelveli.

4.The Executive Engineer,
(Non Conventional Energy Sources),
Tamil Nadu Generation and Distribution Corporation Ltd,
Tirunelveli.

5.The Regional Deputy Director and Member Secretary,
Tirunelveli Local Planning Authority,
Xavior Colony, South Bye Pass Road, Tirunelveli - 627 005.

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6.N.Rajagopal @ Muppudathi

7.Sarjan Realities Private Limited,
No.285/10, Koregaon Park, Behind Singh Motors,
Near Gulmohar Jupiter, Pune - 411 001.

8.Sun Street Solar Private Limited,
No.401, 4th Floor, Shree Guru Harikrishna Bhavan,
Charat Singh Colony, A.K.Road,
Andheri, East, Mumbai,
Maharashtra - 400 093.

9.CSE Deccan Solar Private Limited,
No. 401, 4th Floor, Shree Guru Harikrishna Bhavan,
Charat Singh Colony, A.K.Road,
Andheri, East, Mumbai,
Maharashtra - 400 093.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of of Certiorari, calling for the records pertaining to the impugned proceedings in Lr.No.7925/L21/F.M/s. Sun Street 13.4 MW/2022-5 dated 25.03.2022 passed by the 1st respondent in respect of the property in Survey No.231 situated at Mela Ilanthaikulam Village, Manur Taluk, Tirunelveli District and to quash the same as illegal.

For Petitioner	:Mr.A.Robinson
For R1 to R4	:Mr.S.Deenadhayalan
For R5	:Mr.A.K.Manikkam
	Special Government Pleader
For R6	:No Appearance
For R7	:Mr.Ajmal Khan
	Senior Counsel for M/s.Ajmal Associates
For R8 and R9	:Mr.H.Lakshmi Shankar



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ORDER

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This Writ Petition has been filed challenging the impugned proceedings of the first respondent, dated 25.03.2022 on the ground that the issuance of conditional NOC for running the solar power plant in favour of the 8th and 9th respondents is illegal, since no permission was given under Section 47A of the Tamil Nadu Town and Country Planning Act and that no permission was granted by the local authority for converting the agricultural land for non agricultural purposes as per the Tamilnadu Change of Land Use (From Agriculture to Non-agriculture Purposes in Non-planning Areas), Rules, 2017.

2.The grievance of the petitioner is that the subject property originally belonged to the grandmother of the petitioner and the sixth respondent had managed to grab the entire property and execute a sale deed in favour of the seventh respondent through a registered sale deed dated 26.05.2004 registered as Doc.No.558/2004. In turn, the seventh respondent had executed a sale deed in favour of the 8th and 9th respondents through two registered sale deeds both dated 17.12.2021 registered as Doc.Nos.3807 and 3882 of 2021. Pursuant to the same, the



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8th and 9th respondents had obtained NOC from the respondents 1 to 4 for erecting solar power plant in the property and the same has been made a subject matter of challenge in the present Writ Petition.

3.Heard Mr.A.Robinson, learned Counsel appearing on behalf of the petitioner, Mr.S.Deenadhayalan, learned Counsel appearing on behalf of the respondents 1 to 4, Mr.A.K.Manikkam, learned Special Government Pleader appearing on behalf of the fifth respondent, Mr.Ajmal Khan, learned Senior Counsel appearing on behalf of the seventh respondent and Mr.H.Lakshmi Shankar, learned Counsel appearing on behalf of the respondents 8 and 9.

4.Detailed submissions were made with respect to the right of the sixth respondent to deal with the entire subject property. It is not necessary for this Court to go into this issue, since till date, the sale deed that was executed by the sixth respondent in favour of the seventh respondent and in turn, the sale deeds, that were executed by the seventh respondent in favour of the 8th and 9th respondents has not been put to challenge. Therefore, the very *locus standi* of the petitioner to maintain



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this Writ Petition is in question.

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5.The petitioner cannot be permitted to collaterally question the right and title of the sixth respondent, while the main issue involved in the Writ Petition pertains to the permission granted by the first respondent to the 8th and 9th respondents for wheeling the power for captive use under Non-REC scheme. This proceedings of the first respondent can be put to challenge by the petitioner only after the petitioner questions the sale deed, that was executed by the sixth respondent in favour of the seventh respondent and the sale deeds, that were executed by the seventh respondent in favour of the 8th and 9th respondents, before a competent Civil Court and the same is decided in accordance with law. Without undertaking this exercise, the petitioner will not be permitted to question the proceedings of the first respondent in favour of the 8th and 9th respondents.

6.As on today, the sixth respondent has claimed absolute right over the subject property and he has dealt with the same in favour of the seventh respondent and the seventh respondent sold the property in



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favour of the 8th and 9th respondents and this has been taken into consideration by the respondents 1 to 4 and permission was granted by the first respondent through the impugned proceedings in favour of the 8th and 9th respondents. Such permission, that was given by the first respondent, does not suffer from any illegality, considering the fact that the title document stood in the name of the respective parties. Accordingly, this Court holds that the petitioner does not have the *locus standi* to challenge the impugned proceedings of the first respondent dated 25.03.2022 made in favour of the 8th and 9th respondents. It is left open to the petitioner to work out his remedy before the jurisdictional Civil Court and subject to the result of the case, consequential relief can be sought for by the petitioner. Except giving this liberty, no further orders can be passed in this Writ Petition.

7.This Writ Petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petitions are closed.

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

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The Regional Deputy Director and Member Secretary,
Tirunelveli Local Planning Authority,
Xavior Colony, South Bye Pass Road, Tirunelveli - 627 005.



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N.ANAND VENKATESH, J.

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