



W.P.(MD).No.17161 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17161 of 2020

Manonmani

... Petitioner

Vs.

1.The Executive Engineer,
Tamil Nadu Electricity Board,
Madurai West, Arasaradi,
Madurai.

2.M.Nagarajan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Mandamus***, to direct the 1st respondent to disconnect the agricultural free electricity connection in S.C.No. 05-051-008-459 stands in the name of deceased Muthuthevar placed in the petitioner's southern portion of 30 cents vacant house sites comprised in S.No. 31/2 at Thiruparankundram, Madurai on considering the petitioner's representation, dated 28.10.2020 within the stipulated period.

For Petitioner	: Mr.S.Vijayashanthi
For R1	: Mr.S.Deenadhayalan
For R2	: Mr.R.Shankar Ganesh



W.P.(MD).No.17161 of 2020

WEB COPY

ORDER

This writ petition is filed for issuance of writ of ***Mandamus***, to direct the 1st respondent to disconnect the free agricultural electricity service connection in S.C.No.05-051-008-459 stands in the name of deceased Muthuthevar placed in the petitioner's southern portion of 30 cents vacant house sites comprised in S.No.31/2 at Thiruparankundram, Madurai on considering the petitioner's representation, dated 28.10.2020 within the stipulated period.

2. The petitioner's husband Late.Ravichandran had purchased the vacant site to an extent of 30 cents in the southern portion of 30 cents out of 76 cents in S.No.31/2 at Thiruparankundram Village, Madurai, through Court Auction Sale before the DRT, Madurai and the sale certificate dated 11.02.2011 was issued by the DRT, Madurai, in favour of the petitioner's husband Ravichandran.

3. Pending proceedings before DRT, one Muthuthevar who is the grandfather of the 2nd respondent has filed a petitioner before the DRT to decide



W.P.(MD).No.17161 of 2020

WEB COPY

his cultivating tenancy in respect of the property to an extent of southern portion of 30 cents which was purchased by the petitioner's husband vide petition in I.A.No.264 of 2010. The said application was dismissed by DRT, Madurai as the right of cultivating tenancy cannot be decided by the DRT and issued a direction to approach the appropriate forum. The said Muthuthevar has challenged the order of DRT passed in I.A.No.264 of 2010 by filing C.R.P.No. 1642 of 2010 before High Court and obtained an order of injunction. Thereafter, the petitioner's husband filed a petition before the DRT, Madurai, to demarcate his property with the help of qualified surveyor and the same was allowed, vide order, dated 27.07.2011. The said Muthuthevar challenging the same has filed C.R.P.No.1653 of 2011 and obtained an order of interim injunction.

4. Again the said Muthuthevar has filed a petition before the District Revenue Officer (DRO), Madurai, seeking permission to deposit cultivating tenancy rent in respect of the southern portion of property and the same was dismissed by the DRO, Madurai, vide order, dated 09.06.2017. The order of the DRO has rendered a clear finding that the Muthuthevar need not pay any



W.P.(MD).No.17161 of 2020

WEB COPY

lease rent to the landlord, since the said Muthuthevar and his son i.e. the petitioner's father are not doing any cultivation by putting their physical labour in the land. Further, the alleged land has been converted into house sites even 20 years back and the revenue records reveals that the said property is a vacant housing site and the petitioner is also paying vacant sit tax for the property to an extent of 30 cents. The DRO has observed that on verification of 1421 Pasali and Adangal, it reveals that an extent of 76 cents comprised in S.No.31/2 the patta No.647 stands in the name of Nallakaruppan Chettiar as building and vacant site and therefore, there is no possibility of cultivation at all. Moreover, there are no particulars regarding the plantation and harvesting of crops and hence there is no cultivating tenancy rights exists to the said Muthuthevar. In the meanwhile, the C.R.P.s were dismissed, vide common order, dated 13.02.2020. Therefore, the litigation between the petitioner and the 2nd respondent had come to an end.

5. On perusing the orders and documents stated supra, there is a clear finding by the appropriate authorities that the 2nd respondent's grandfather, father and 2nd respondent are not doing any cultivation in the disputed site.



W.P.(MD).No.17161 of 2020

Now, the petitioner is claiming to disconnect the free electricity connection which was granted to a well situated in the petitioner's site. The 2nd respondent is objecting and is claiming right over the property as if he is carrying out cultivation and had produced photographs. On perusing the photographs, it is seen that the 2nd respondent is growing some grass, which is used for poultry. The 2nd respondent further submitted that he has filed certain petitions before the appropriate authority and until the petitions are disposed the petitioner is not entitled to the land. This plea of the 2nd respondent cannot be entertained. Even if it is taken that the 2nd respondent had filed some petitions, mere pendency of petitions will not give the 2nd respondent any right over the property. More so when the petitions filed by the ancestors were dismissed and there is a categorical finding that the land is converted as house sites. Moreover, the fact remains that the property belongs to the petitioner which the petitioner's husband has purchased through DRT Court auction. The petitioner is having every right to enjoy the property. Therefore, the 2nd respondent cannot interfere in the said possession. It is pertinent to point out that the 2nd respondent is in possession of the adjacent land where he has constructed huge buildings. If the 2nd respondent's plea is accepted then the 2nd respondent's



W.P.(MD).No.17161 of 2020

WEB COPY

intension is to enjoy his own property which is adjacent to the present disputed property and not to allow the petitioner to enjoy the petitioner's property. And this Court is of the considered opinion that the 2nd respondent cannot be permitted to raise such illegal plea.

6. It is also pertinent to note that the petitioner is seek to disconnect the “free agricultural service connection”. If the same is not disconnected, the 2nd respondent would use the free agricultural connection for some other purpose and thereby would commit theft of energy. Since the land is in the name of the petitioner, then for the alleged theft of energy, the petitioner would be made liable. Theft of energy would be committed by the 2nd respondent and the petitioner would be made liable. Hence, the 2nd respondent has no right to object to disconnect the free agriculture service connection. Therefore the 1st respondent is directed to disconnect the free electricity connection granted in service connection No.05-051-008-459 which stands in the name of Muthuthevar within two weeks from the date of receipt of the copy of the order.

7. Since the 2nd respondent submitted before this Court that he is



W.P.(MD).No.17161 of 2020

growing grass, he is permitted to harvest the grass and vacate the premises without any murmur within a period of three months from the date of receipt of a copy of this order. With the above observations and directions, the writ petition is allowed. No costs.

17.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Tmg
To

The Executive Engineer,
Tamil Nadu Electricity Board,
Madurai West, Arasaradi,
Madurai.



WEB COPY



W.P.(MD).No.17161 of 2020

S.SRIMATHY, J.

Tmg

W.P.(MD).No.17161 of 2020

17.08.2023