



W.P(MD)No.21586 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21586 of 2022

G.Joseph Rajesh Pandiyan

... Petitioner

Vs

1.The Superintending Engineer (Distribution),
Thoothukudi Electricity Distribution Circle,
Thoothukudi.

2.The Executive Engineer Distribution,
Thiruchendur Electricity Distribution Circle,
Thiruchendur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in Lr.No.EE/O&M/TCR/TA1/F.Dkt./D.942/2022 dated 18.08.2022 quash the same and direct the respondents to effect Electricity Supply to the petitioner land in S.No.30/2B in Patta No.3492 Udangudi Village, Tiruchendur Taluk within a time frame.

For Petitioner : Mr.N.L.Raja
Senior Counsel
for P.Sivachandran



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For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondents.

2.The writ petitioner applied for being provided with electricity supply for the petition mentioned land comprised in Survey No.30/2B in Udangudi Village in Tiruchendur Taluk. The petitioner submitted several reminders also. Vide communication dated 18.08.2022, the second respondent herein informed the petitioner that energy theft was detected in LT SC Nos.81 and 163, and balance outstanding amount towards extra levy with Belated Payment Surcharge (BPSC) has to be collected and only if 50% of the amount is remitted, the petitioner's request will be acceded. Challenging the said communication, the present writ petition has been filed.

3.The learned Senior Counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for. The respondents have filed a detailed counter affidavit and



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the learned Standing Counsel took me through its contents. The stand of the respondents is that the petition mentioned land along with the land comprised in Survey No.30/2A originally belonged to the petitioner's father Thiru.S.J.Gayas and that the ice factory was being run in a portion of the land. Electricity was supplied to the said ice factory through two LT service connection Nos.81 and 163. Energy theft was detected on 21.03.2002 and criminal case was registered. Assessment charges were also levied. Till date, the extra levy amount could not be recovered. Therefore, the respondents invoked Regulation 17(9)(A) of the Tamil Nadu Electricity supply code and issued the impugned communication. According to the learned Standing Counsel no interference is warranted. He pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions and went through the materials on record. It is not in dispute that Thiru.Gayas owned an extent of 2.10 acres in Survey No.30/2. Ice factory in the name and style of "Joyce Ice Factory" was run in a portion of the land measuring 15 cents. It was enjoying two electricity service connections (LT SC Nos.81 and 163). Both service connections stood in the name of Thiru.Gayas. While so, on 12.03.2002 he settled 15 cents of land on which the ice factory stood in favour of his son



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Jeyaprakash through a registered document (Document No.18 of 2002). On 12.03.2002, application was submitted for effecting name transfer. As per the mandatory procedure, the service connections were inspected. While name transfer was effected in respect of the LT SC No.81, it was not done in respect of LT SC No.163. On 21.03.2002, energy theft was detected and Crime No.49 of 2002 was registered. Eventually, petitioner's father Gayas was exonerated from the criminal case. On 15.12.2014, Thiru.Gayas settled 12.53 cents in favour of the petitioner. Patta was also issued in his favour (Patta No.3492). Thereafter, the petitioner applied for service connection for the premises comprised in Survey No.30/2B.

5.The question that arises for consideration is whether citing the subsisting demand pending against petitioner's father and brother, the petitioner's request for service connection can be denied; and whether the respondents are justified in calling upon the petitioner to share the said burden.

6.The respondents have invoked regulation 17(9)(a) of the Tamil Nadu Electricity Supply Code. The said provision reads as under:

“17.Agreement with respect to Supply : Issues on recovery of charges 9 (a) In case of service connections in a



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premises, which have been disconnected / dismantled for defaults in payment of dues whatsoever and if such service connections are to be reconnected or new service connections are to be obtained by other persons in such premises either by purchase or transfer or lease basis, the Distribution Licensee shall reconnect such service connections or effect new service connections, as the case may be, in such premises only after payment of dues attributed to such premises by the applicant:

Provided that in case such premises have legally been sub-divided, the ourstanding dues attributed to such premises shall be divided in proportion to the area covered by that sub-division. A new service connection to any of such sub-divided premises shall be given only after the share of outstanding dues attributed to such sub-divided premies, is duly paid by the applicant. The Distribution Licensee shall not refuse connection to an applicant of such sub-divided premises only on the ground that, dues attributed to the other portion(s) of such sub-divided premises have not been paid, nor shall the licensee demand record of last paid bills of such other portion(s) from such applicants.”

A careful reading of the aforesaid provision indicates that if in the case of service connection in a premises which has been disconnected for default in payment of dues, if such service connections are sought to be reconnected or new service connection is to be obtained by other persons in such premisses



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either by purchase or transfer or lease basis, it can be obtained only after payment of dues attributed to such premises by the applicant.

7.The materials available on record clearly indicate that theft took place only in the premises comprised in Survey No.30/2A. The aforesaid regulation repeatedly employs the expression “such premises”. The petitioner’s father had settled the ice factory including the land on which it is situated in favour of Jeyaprakash, brother of the petitioner, on 18.02.2002 itself. Theft was detected only on 21.03.2002. The consequences of the occurrence that have taken place in the premises comprised in Survey No.13/2A will have to be borne only by owner or occupant or lessee or the subsequent transferee of the said Survey No. 30/2A. The said consequences cannot fall on the petitioner who has now become the owner of Survey No.30/2B. The respondents have misconstrued the aforesaid regulation.

8.In this view of the matter, the communication impugned in this writ petition is set aside. The respondents are directed to provide service connection for the petition mentioned premises subject to fulfilment of the other usual formalities. This shall be done within a period of eight weeks from the date of receipt of a copy of this order.



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9.This writ petition is allowed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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Thoothukudi.
- 2.The Executive Engineer Distribution,
Thiruchendur Electricity Distribution Circle,
Thiruchendur.



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G.R.SWAMINATHAN, J.

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