



W.P.(MD)No.1319 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 10.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.1319 of 2015
and M.P.(MD)No.1 of 2015
and W.M.P.(MD)No.22161 of 2022

V.Gurusamy

... Petitioner

versus

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.14, Anna Salai,
Chennai.
2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Maharaja Nagar,
Tirunelveli.
3. The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Kadayanallur,
Tirunelveli District.



W.P.(MD)No.1319 of 2015

4. The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Sivagiri,
Tirunelveli District.

5. S.S.Subbiah Thevar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 12.09.2014 passed by the 2nd respondent herein and quash the same and consequentially direct the 2nd respondent to transfer the Electricity Service connection bearing No.94 and 173 pertaining to the well situated at S.No.408/2, Thirumalapuram Village, Sivagiri Taluk, Tirunelveli District in the name of the petitioner herein.

For Petitioner	:	M/s.F.X.Eugene
For R1 to R4	:	Mr.S.Dheenadhayalan Standing Counsel for TNEB
For R5	:	Mr.S.Meenakshi Sundaram Senior Counsel for Mr.R.Manimaran

ORDER

This writ petition is filed as against the order of the second respondent dated 12.09.2014 rejecting the petitioner's representation



W.P.(MD)No.1319 of 2015

dated 25.06.2012 that the request for disconnecting the service connection Nos.94 and 173 cannot be considered.

2. According to the petitioner, the electricity service connection Nos.94 and 173 have wrongly been effected in his well, which is situated in Survey No.408/2. According to him, he is the owner of the property in Survey No.408/2. Therefore, he submitted a representation dated 25.06.2012 to the respondent Board, stating that the electricity service connection Nos.94 and 173 which have wrongly been effected in Survey No.408/2 have to be disconnected. Since the same has not been considered, the petitioner has filed a writ petition before this Court in W.P.(MD)No.13887 of 2012, wherein, this Court, by order dated 27.06.2014, has directed the second respondent/the Superintending Engineer, TANGEDCO, Tirunelveli, to consider all the documents as well as the title deed to be produced by both parties in support of their claim and thereafter, afford an opportunity of hearing to both parties and pass a speaking order, on merits and in accordance



W.P.(MD)No.1319 of 2015

with law, within a period of six weeks from the date of receipt of the copy of the order. Pursuant to the order of this Court, the second respondent, after conducting enquiry, passed the impugned order that the request of the petitioner for disconnecting the service connection Nos.94 and 173 cannot be considered. Aggrieved over the same, the present writ petition has been filed.

3. The petitioner claims that the agricultural service connection Nos.94 and 173 have wrongly been effected in the well in Survey No. 408/2, which belongs to him. The 5th respondent Subbiah Thevar claims that the service connection No.94 is effected in Survey No.413, which belongs to him.

4. The second respondent, after conducting an enquiry, held that the electricity service connections sought to be disconnected stand in the name of one Subbiah and his brother Durai Raj; the said Subbiah obtained electricity service connection in S.No.94 on 16.06.1970 and



W.P.(MD)No.1319 of 2015

his brother Durai Raj has obtained service connection in S.No.173 on 25.11.1977; both the electricity service connections are agricultural service connections; since the disputed well covers a vast area in Survey Nos.413, 407 and a small area in Survey No.408, the request for disconnecting the service connection Nos.94 and 173 cannot be considered.

5. It appears that the 5th respondent Subbiah Thevar has also filed a suit before the District Munsif Court, Sivagiri in O.S.No.230 of 2004 before the District Munsif Court, Sivagiri, for declaration that the well is situated in Survey No.413 and therefore, he is also entitled to continue the service connection. The said suit was decreed in his favour, by Judgment and Decree dated 23.07.2010. As against the same, petitioner appears to have filed an appeal before the Sub Court, Sankarankovil in A.S.No.65 of 2010 and the same was partly allowed, by Judgment and Decree dated 07.07.2011. As against the reversal finding of the First Appellate Court, the 5th respondent Subbiah Thevar



W.P.(MD)No.1319 of 2015

has preferred second appeal before this Court in S.A.(MD)No.1213 of 2011 and the same is pending.

6. The learned Senior Counsel appearing for the 5th respondent submits that when the second appeal was taken up for hearing, a Division Bench of this Court has appointed a Senior Counsel, one Mr.A.Arumugam, as Commissioner to inspect the property. The Commissioner has inspected the property on 30.07.2022, however, report is yet to be filed. He further submits that the parties are ready to proceed with the second appeal and based on the Commissioner's report, the second appeal will be decided within a reasonable time.

7. The dispute in this writ petition is as to whether the disputed well is situated in Survey No.413 or 407 or 408.

8. It appears that in the Second Appeal, a Division Bench of this Court has appointed a Senior Counsel, one Mr.A.Arumugam, as



W.P.(MD)No.1319 of 2015

Commissioner to inspect the property to ascertain as to whether the disputed well is situated in Survey No.413 or 407 or 408 and the same can be decided only at the time of conclusion of the second appeal.

9. Further, the learned counsel appearing on either side submit that the second appeal is ripe for final hearing.

10. In view of the above, this writ petition is disposed of with liberty to the petitioner to submit a fresh representation to the respondents on the out come of the second appeal which is pending before this Court in S.A.(MD)No.1213 of 2011. No costs. Consequently, connected miscellaneous petitions are closed.

10.03.2023

ogy
NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.



WEB COPY



W.P.(MD)No.1319 of 2015



WEB COPY



W.P.(MD)No.1319 of 2015

B.PUGALENDHI, J.

ogy

To

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.14, Anna Salai, Chennai.
2. The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Maharaja Nagar, Tirunelveli.
3. The Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Kadayanallur, Tirunelveli District.
4. The Assistant Executive Engineer,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Sivagiri, Tirunelveli District.

W.P.(MD)No.1319 of 2015

10.03.2023