



W.P.(MD) No.22586 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.22586 of 2021

K.Sivakumar

.. Petitioner

Vs.

- 1.The Superintending Engineer,
Tamil Nadu Generation and
Distribution Corporation,
(TANGEDCO),
Mannarpuram, Trichy.
- 2.The Assistant Engineer,
Operation & Maintenance Division,
Tamil Nadu Generation and
Distribution Corporation,
(TANGEDCO),
Somarasampettai, Trichy.
- 3.M.Ravi
- 4.M.Sathiyamoorthy
- 5.V.Ilayaraja
- 6.J.Muthukumar

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his



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Letter No.U.Mi.Po/E.Ka/So.Pe/A.En.102A/21 dated 16.09.2021 and consequently directing the 2nd respondent to give electricity connection to the Petitioner's property in Old Survey No.251/2, New Survey No. 251/2A1A2 situated at Keela Theru, Allithurai Village, Trichy District.

For Petitioner : Mr.C.Vakeeswaran
For RR1 & 2 : Mr.S.Deenadhayalan
Standing Counsel
For RR3, 5 & 6 : Mr.G.Kandhavadivelan
For R4 : No appearance

ORDER

The petitioner has moved this Court invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his Letter No.U.Mi.Po/E.Ka/So.Pe/A.En.102A/21 dated 16.09.2021 and consequently directing the 2nd respondent to give electricity connection to the Petitioner's property in Old Survey No.251/2, New Survey No. 251/2A1A2 situated at Keela Theru, Allithurai Village, Trichy District.



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2. The facts are briefly set out hereinbelow:

The properties comprised in S.No.351/3 and Old Survey No.251/2, New Survey No.251/2A1A2 and other properties in Allithurai Village, Trichy District belong to the petitioner's father and his family members. On 24.06.2003, a partition was effected between the petitioner's father and other family members. Under this partition, S.No.351/3 measuring 761 sq. ft. and Old S.No.251/2, New Survey No.251/2A1A2 to an extent of 11½ cents was allotted to the share of the petitioner's father. A condition was imposed that the parties to the partition deed should have a common pathway running east-west with a 5' breadth and this pathway should extend up to S.No.245/12 and the common pathway should measure 6½' east-west till S.No.251/1. All the family members had agreed to this and accordingly, the partition deed was acted upon.

3. It is the case of the petitioner that his father had constructed a house in S.No.351/3. On 10.09.2012, the property was settled on the petitioner and from the date of the settlement deed, he has been enjoying



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the property peacefully. The adjacent co-owners of the building have got electricity connection. The petitioner would submit that he had constructed a house in the year 2014-15 in Old S.No.251/2, New S.No. 251/2A1A2 and applied for electricity connection after remitting all the charges. However, respondents 3 to 5 objected to the giving of electricity connection to the petitioner's property. Thereafter, the petitioner also came to learn that the sanctioned electricity connection was disconnected for non-payment and the first respondent had directed the petitioner to file a fresh application for electricity connection. The petitioner would submit that he had submitted a fresh application on 13.07.2021, which was rejected on 16.09.2021 by the impugned order, wherein the second respondent submitted that when he had come to erect the pole on 14.09.2021, there was objection by the adjacent land owners that the pathway is not a common one and directed the petitioner to rectify the objection within seven days failing which the application would stand cancelled. It is challenging the said order that the petitioner is before this Court.



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4. The third respondent has filed a counter in which it is contended that the pathway is a cul-de-sac and the south end of the pathway is blocked with cement compound wall and that the fourth and fifth respondents are having electricity connection by erecting a steel pole out of their own money and their only objection was erection of a TNEB electric pole, since the erection of the electricity pole of the Electricity Board would result in the pathway being treated as a public pathway.

5. The learned counsel for the parties have also made their arguments in keeping with their respective pleadings.

6. It is an admitted fact that the pathway in question belongs to both the petitioner as well as respondents 4 and 5. The only objection put forward is that a steel pole has to be erected.

7. The learned Standing Counsel appearing for the Electricity Board would submit that as per their rules, the Board does not erect steel poles.



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8. Respondents 4 and 5 cannot insist upon the same more particularly when the petitioner also has right to access through the pathway. The fear that it would become a public pathway is uncalled for, since the pathway is a cul-de-sac. Therefore, this Writ Petition is allowed and the impugned order dated 16.09.2021 is set aside. The respondent-Electricity Board is directed to complete the work and give electricity connection to the petition mentioned property within a period of four weeks from the date of receipt of a copy of this order. No costs.

24.04.2023

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

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P.T.ASHA, J.

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