



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **09.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

W.M.P(MD).Nos.2407 to 2412 of 2016

W.P(MD).No.2722 of 2016

A.Ganesan

... Petitioner

Vs.

1.The Assistant Executive Engineer,
Distribution/Urban
TANGEDCO, Shanthi Nagar,
Palayamkottai, Tirunelveli.

2.The Executive Officer,
Arulmigu Venkatachalapathi Temple,
Thimmarajapuram,
Tirunelveli District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to give electricity supply to the petitioner's house in 7/303A, Pillaiyar Kovil Street, Thimmarajapuram, Palayamkottai, Tirunelveli, without insisting NOC to be obtained from the second respondent.



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W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

For Petitioner : Mr.S.Selvakumar

For Respondents : Mr.S.Deenadhayalan
Standing Counsel
for R1
Mr.H.Arumugam for R2

COMMON ORDER

These Writ Petitions are filed seeking Mandamus to the first respondent to give electricity service connection to the houses of the petitioners situated at Thimmarajapuram, Palayamkottai Taluk, Tirunelveli District, without insisting No Objection Certificate to be obtained from the second respondent.

2. The petitioners are the residents of Thimmarajapuram Village, Palayamkottai Taluk, Tirunelveli District and have constructed houses in Survey Nos.159 to 163 situated in the said Village. The petitioners have approached the first respondent Electricity Board for obtaining electricity service connection. By referring to the objections of the second respondent Temple, the first respondent has insisted the petitioners for obtaining No Objection Certificate from the second respondent Temple



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

WEB COPY

and therefore, the petitioners have filed these writ petitions seeking Mandamus to the first respondent to give electricity service connection to the houses of the petitioner without insisting No Objection Certificate to be obtained from the second respondent.

3. The learned counsel appearing for the petitioners submits that the petitioners are residing in the said place for several years and they are not the parties to the suit filed by the second respondent in O.S.No.122 of 2003 before the Additional District Munsif, Tirunelveli, and therefore, the properties of the petitioners are not Temple properties. Without ascertaining the same, the first respondent is insisting the petitioners to obtain No Objection Certificate from the second respondent Temple. The learned counsel further submits that the houses of the petitioners have also been assessed with property tax.

4. The learned counsel appearing for the first respondent submits that the properties, where the petitioners have put up constructions, are the Temple properties and the Temple has also filed a suit against the encroachers and obtained a decree and has also communicated a copy of



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

WEB COPY

the decree to the first respondent with a request not to give electricity service connection to the encroachers in the Temple properties. Therefore, the first respondent has insisted the petitioners to obtain No Objection Certificate from the second respondent Temple.

5. The learned counsel appearing for the second respondent Temple submits that Survey Nos.161 to 166 and 169 and 170 situated in Thimmarajapuram Village, Palayamkottai Taluk, Tirunelveli District, are the lands belonging to Arulmigu Venkatachalapathi Temple and the Temple has identified 279 encroachers and filed a suit for eviction against them before the Principal District Munsif Court, Tirunelveli, in O.S.No.745 of 1965 and obtained a decree for removing encroachments, as against which, appeal was preferred by the encroachers and the matter was remanded back to the trial Court. The trial Court has again reiterated the same and held in favour of the Temple. He further submits that the Temple has initiated action as against the encroachers and some of the encroachments have been removed. With regard to certain areas, the Temple is not in a position to enter upon and identify the extent of the encroachment. He also relied upon the judgment passed by the Hon'ble



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

WEB COPY

Division Bench of this Court in W.A(MD).No.444 of 2017 dated 26.04.2017 and the order passed by this Court in W.P(MD).No.19456 of 2020 dated 24.11.2022. In W.A(MD).No.444 of 2017, a similarly situated person has approached this Court seeking Mandamus to the first respondent therein to give electricity supply to his house in Door No.6/69A, Rajamannar Street, Thimmarajapuram, Tirunelveli District. This Court has disposed of the said Writ Appeal by order, dated 26.04.2017, with a direction to the second respondent Temple herein to lodge a complaint before the Commissioner of Police, Tirunelveli City, along with a copy of the order, so that, appropriate directions may be issued to the concerned Police to take necessary action against the encroachers. In W.P(MD).No.19456 of 2020, this Court directed the Authorities concerned to identify the remaining encroachers and take appropriate action under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959.

6. This Court considered the rival submissions made on behalf of either side.



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

WEB COPY

7. From the submissions made by the learned counsel appearing for the second respondent, it is clear that the petitioners have encroached the properties of the second respondent Temple and constructed houses in the Temple properties and filed the present writ petitions seeking Mandamus to the first respondent to give electricity supply to the houses constructed by them in the Temple properties. Though the Temple has filed a suit as against the encroachments and obtained decree in its favour, the petitioners have not been evicted from the Temple properties so far. This Court has also directed the authorities concerned to take action as against the encroachers under Section 78 of the said Act. Even then, the Authorities have not evicted the encroachers from the Temple properties.

8. Considering the facts and circumstances of the case, these Writ Petitions are disposed of, with a direction to the second respondent to take immediate action against the encroachers under Section 78 of the Hindu Religious and Charitable Endowments Act, 1959 within a period of twelve weeks from the date of receipt of a copy of this order. There



W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

WEB COPY

shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.10.2023

Index: Yes/No
Internet: Yes/No
ssb

To

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W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

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W.P(MD).Nos.2722 to 2727, 5389 to 5391 of 2016

09.10.2023