



W.P(MD)No.30878 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.30878 of 2023

M.Najumudheen

... Petitioner

Vs.

The Assistant Executive Engineer,
TANGEDCO, Distribution and Maintenance,
Karaikudi,
Sivagangai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to grant electricity service connection to the property of the petitioner situate in the lands in old Survey Nos.24/5 part and S. No.24/8 part, now re survey No. 24/3H2 and S. No.24/36 part, Plot No.15 situated at Athalaipatti Village, Kazhanivasal Group, Sanakarapuram Panchayat, Karaikudi Taluk, Sivagangai District by considering the petitioner's online application Ref. No. 2000540112232538 dated 19.12.2023.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.S.Deenadhayalan



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ORDER

Heard both sides.

2. The issue raised in this writ petition had been answered vide order dated 05.10.2023 in W.P.(MD)No.4129 of 2022. The said order reads as follows:-

“Heard both sides.

2.The petitioner's father purchased the petition mentioned plot on 12.09.2011. He executed settlement deed dated 10.01.2020 in favour of his wife and his son namely, the petitioner herein. The revenue record reflects the names of the petitioner and his mother. A house has been constructed. It has been assessed to property tax also. The petitioner applied for grant of electricity service connection. His request was negatived. Challenging the same, the petitioner filed W.P.(MD)No.15424 of 2021. The writ petition was disposed of in the following terms:-

“4. A direction is issued to the petitioner S.Nitheshraj, Son of Srinivasan, residing at Ramalingam Nagar, Koviloor Road, Karaikudi, Sivangangai District and to the second respondent/the Assistant Executive Engineer, TANGEDCO (Rural), Karaikudi, Sivagangai District to mutually meet, fix the date and thereafter, go over to the petitioner's house and measure the distance from the petitioner's house to the Sambai Oothu and if it is found to be beyond 500 meters, a further direction is given to the second respondent to provide necessary service connection if the petitioner satisfies all other requirements. If the distance is less than 500 meters, then the Assistant Executive Engineer may pass a detailed order giving the reason for not giving electricity connection. The entire exercise shall be conducted between the petitioner and the second respondent and it is hoped that they would realize the actual distance between the petitioner's house and Sambai



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Oothu. No further orders are required. Thereafter, a fresh exercise to measure the distance was undertaken and the Assistant Engineer, TANGEDCO, Karaikudi came to the conclusion that since the petitioner's house is located at a 180 meters from Sambai Oothu, electricity service connection cannot be given. Questioning the same, the present writ petition came to be filed. No doubt, the impugned order is in consensus with the terms of the order dated 11.11.2021 made in W.P.(MD)No.15424 of 2012. But I wanted to know from the learned standing counsel for TANGEDCO as to whether any restraint order has been earlier issued to the effect that electricity service connection should not be given, if the building is located within 500 meters of Sambai Oothu.

3.The case was adjourned to enable the respondents to make a submission in this regard. In the impugned order what is referred to is the order dated 11.07.2002 made in W.P.No.17544 of 1995. Let me extract the entire order:-

“The prayer in the writ petition is as follows:- To issue a well of mandamus directing the respondents not to grant sanction to build any house or building within radius of 500 meters in the Sambai Uttru area in Karaikudi Municipal Limit.

2. The grievance of the petitioner is that the respondents are making attempt to grant sanction to build houses within 500 meters in “Sambai Uttru” area in Karaikudi Municipal Limit. The writ petition has been filed on the allegation that the members of the association consists of Advocates, Doctors, Teachers and other public spirited individuals and the association to protect the sole drinking water source for the Karaikudi Town popularly known as the "Sambai Uttru". Since respondents are making attempt to sanction building plans within 500 meters around "Sambai uttru” area, they made representation on 20.3.1995. In spite of the said representation, some of the plans have also been sanctioned and therefore, the petitioner made a further representation on 30.3.1995 requesting the first respondent to demolish the construction put up. Since no action has been taken by the



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respondents, the present writ petition has been filed.

3. No counter was filed on behalf of the respondents.

4. From the affidavit filed in support of the writ petition, it is seen that Sambai Utru is the sole drinking water source for the Karaikudi town and grant of permission construction of building around the said area would affect the source of drinking water. However, in view of the specific averments that some of the individuals have already been sanctioned the building plan and also made construction and some individuals also applied for planning permission and those individuals have not been impleaded in the writ petition, the direction sought for in the writ petition cannot be granted without ascertaining the factual position. Hence, the writ petition is disposed of with the direction to the respondents to consider the representations dated 20.03.1992 and 30.3.1995 of the petitioner's association and take action as per law after hearing the petitioner's association as well as those who would be affected on the action of the first respondent. Such exercise shall be completed within three months from the date of receipt of this order.

5. With the above direction the writ petition is disposed of."

4. It is seen that the only direction that was given was to call upon the authorities to take a call in the matter. It is not known if any formal order was issued by the District Collector, Sivagangai. Since no such restraint order has been produced before me, I have to necessarily interfere in the matter. The learned counsel for the petitioner states that adjacent building owners are already enjoying electricity service connection. The petitioner alone cannot be discriminated.

5. In this view of the matter, the order impugned in this writ petition is set aside. The second respondent is directed to provide electricity service connection to the petition mentioned premises subject to fulfilment of usual formalities. This shall be done as expeditiously as possible. The writ petition is allowed. No costs."



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3. In view of the same, the respondent is directed to grant electricity service connection to the petition mentioned premises subject to fulfilment of other usual formalities. The Writ Petition is allowed. No costs.

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G.R.SWAMINATHAN, J.

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