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W.P.No.2662 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM:

THE HON'BLE MRS. JUSTICE J.NISHA BANU

W.P.No.2662 of 2021

M.Bala

... Petitioner

Vs.

1. The Superintending Engineer,
Tiruvannamalai Electricity Distribution Circle,
TANGEDCO, Vengikkal,
Tiruvannamalai.
2. The Executive Engineer,
Tiruvannamalai Town,
TANGEDCO,
Tiruvannamalai District.
3. The Assistant Engineer,
Tiruvannamalai Town, (North) (O & M),
TANGEDCO, Vengikkal,
Tiruvannamalai.

4. A.Agasthiya Ganesh

5. A. Latha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to



W.P.No.2662 of 2021

consider the petitioner's representation dated 05.10.2020 for restoring petitioner's name in the electricity service connections bearing Nos.02-205-006-0989, 02-205-006-1242, 02-205-006-1243, 02-205-006-1551 and 02-205-006-1295 by cancelling mutation in 5th respondent's name.

For Petitioner : Mr.R.Prabhakar

For RR 1 to 3 : M/s.Daniel Mary
Standing Counsel

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

The writ petition has been filed seeking for a direction to the respondents 1 to 3 to consider the petitioner's representation dated 05.10.2020, for restoring the petitioner's name in the electricity service connections, by cancelling the mutation made in the name of the 5th respondent.

2. According to the learned counsel for the petitioner, the petitioner had purchased the house site in S.F.No.275/4 measuring an extent of 1399 sq.ft from a vendor named Suseela in the year 2006 and the petitioner had constructed a house in the year 2010 by spending more than Rs.70,00,000/- consisting of two floors and the petitioner is in possession and enjoyment of the house.



W.P.No.2662 of 2021

WEB COPY

3. The learned counsel for the petitioner would submit that the petitioner has applied and obtained 4 single phase electricity service connections, viz. 02-205-006-0989, 02-205-006-1242, 02-205-006-1243 and 02-205-006-1551 and one three phase service connection, i.e. 02-205-006-1295, totally five electricity service connections and the petitioner has been paying taxes to the local authorities without any default.

4. Since the petitioner's husband was in want of money for his business, he had approached the fourth respondent seeking financial assistance of Rs.10,00,000/- thereby promising to execute mortgage deed. But the fourth respondent did not agree for the same and he demanded General Power of Attorney to be executed in his name as security for the hand loan of Rs.10,00,000/- subject to payment of Rs.60,000/- as interest per month.

5. According to the learned counsel for the petitioner, the fourth respondent assured that soon after the repayment of loan amount, the General Power of Attorney would be cancelled. Agreeing to the same, the petitioner had executed the General Power of Attorney in the name of the fourth



W.P.No.2662 of 2021

respondent and only one Electricity Service connection bearing No.02-205-006-0989 was mentioned in it. A sum of Rs.60,000/- as interest was paid to the fourth respondent by the petitioner regularly for the principal amount of Rs.10,00,000/- obtained by the petitioner.

6. Due to financial crunch in the family, the petitioner was unable to pay the monthly interest due to the fourth respondent from the month of November 2016 onwards and therefore, she requested time for payment of the same. According to the learned counsel for the petitioner, the fourth respondent had sent goons to her house and created ruckus and threatened the petitioner and her family members for non-payment of monthly interest. As per the negotiations held in the presence of the mediators, it was derived that the petitioner had to pay Rs.10,00,000/- of principal amount along with three months interest amount to the fourth respondent.

7. In order to pay the above said amount, the petitioner has approached the fourth respondent for re-payment of loan amount, whereby the fourth respondent refused to receive the same and demanded Rs.30,00,000/- as ransom. Moreover, when the receipts of electricity charges paid earlier by the



W.P.No.2662 of 2021

petitioner were examined, to the shock and surprise of the petitioner, the same stood in the name of the fifth respondent. Immediately, the petitioner had approached the Registering Authority and applied for Encumbrance Certificate of the subject property, whereby the petitioner came to know that the fourth respondent, on the strength of the power of attorney which was executed by the petitioner for security purpose of the hand loan obtained, had cheated the petitioner and only with an evil intention to grab the property of the petitioner, the fourth respondent has created an Agreement of Sale with his wife, who is the fifth respondent herein.

8. Thereafter, the petitioner, under the Right to Information Act, sought for particulars from the respondents and the respondents 1 to 3 have informed that the name transfer has been effected on the strength of the sale deed. According to the learned counsel for the petitioner, the act of the respondents 1 to 3 is illegal and without the consent of the petitioner, name change has been effected, by fabricating the records, thereby including the name of the fifth respondent in the Sale Agreement.



W.P.No.2662 of 2021

WEB COPY

9. In respect of the sham sale deed created in the name of the fifth respondent with the forged documents, the petitioner filed a suit in O.S.No.81 of 2019 on the file of the Principal District Judge, Tiruvannamalai and the same is pending. Thereafter, the petitioner made a representation, dated 05.10.2020 to the respondents 1 to 3 for restoration of the petitioner's name in the electricity service connections. Till date, no action has been taken on the representation submitted by the petitioner. Hence, the petitioner has preferred the present writ petition.

10. Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents TANGEDCO and perused the materials placed before this Court.

11. Perusal of the records would go to show that the writ petitioner has already filed a civil suit for the relief sought for in the writ petition. Since the issue involved in this writ petition is civil in nature, unless the parties to the suit prove their title/possession by letting in evidence and the same is considered and findings recorded by the trial Court, this Court cannot go into disputed facts. Therefore, the petitioner has to wait for the outcome of the



W.P.No.2662 of 2021

pending civil suit and this Court cannot issue directions to the respondent for disposing of the petitioner's representation, when a civil case is pending for disposal. Accordingly, the Writ Petition stands dismissed. No costs.

21.02.2024

Index : Yes / No
Internet : Yes / No
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To:

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Tiruvannamalai.
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WEB COPY



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J.NISHA BANU, J.

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