



C.R.P.No.127 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.127 of 2021 and

C.M.P.No.1178 of 2021

Arthanari

... Petitioner

Vs.

1.Srinivasan

2.The superintending Engineer,
TANGEDCO,
Mettur Electricity Distribution Circle
Mettur Dam, Mettur Town and Taluk,
Salem District.

3.The Executive Engineer,
TANGEDCO,
Keeleripatti Post,
Tiruchengode Town and Taluk,
Namakkal District.

4.The Assistant Executive Engineer,
TANGEDCO,
Kollapatti Housing Board Colony,
Tiruchengode Town and Taluk,
Namakkal District.



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5.Junior Engineer,
TANGEDCO,
Kollapatti Housing Board Colony,
Tiruchengode Town and Taluk,
Namakkal District.

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, praying to set aside the fair and final order dated 12.10.2020 on the file of the Principal District Munsif, Tiruchengode passed in I.A.No.4 of 2019 in O.S.No.273 of 2007.

For Petitioner	: M/s.Mohana Priya
For Respondent 1	: Not claimed
For respondents 2 to 5	: Mr.G.S.Dhanalakshmi for M/S.S.T.Raja Standing Counsel for TANGEDCO

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to reject the plaint under Order VII Rule 11 of CPC.

2. The 1st respondent herein filed a suit for injunction restraining the other respondents from effecting service connection in the name of petitioner

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for the well situated in Survey No.114/1. The contesting 5th respondent filed a written statement stating that he had already effected service connection to the well of the petitioner situated in Survey No.114/5. Based on the said averment, the petitioner has filed present application for rejection of the plaint. It is the case of the petitioner that once the electric service connection is effected in respect of well in the suit property, the prayer sought for by the 1st respondent would become infructuous.

3. Therefore, it is contended by the petitioner that he shall not be compelled to face the ordeal of the trial. The said application filed by the petitioner was dismissed by the Court below on the ground that as per the averment found in the written statement filed by the 5th respondent/4th defendant, electric service connection was effected in respect of well situated in Survey No.114/5 but not in the suit survey number. Therefore, rejecting the claim of the petitioner that the electric service connection was effected in respect of well situated in Survey No.114/1, the Court below dismissed the application. Aggrieved by the same, the petitioner is before this Court.



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4. The learned counsel for the petitioner by taking this Court to the averment of the 1st respondent in the petition filed by him seeking amendment of the plaint in I.A.No.166 of 2018 submitted that 1st respondent himself admitted that electric service connection was effected in respect of well in Survey No.114/1. Therefore, the suit prayer should be treated as infructuous.

5. A perusal of written statement filed by the 5th respondent/4th defendant would suggest that it was averred by him that service connection was effected only in respect of well situated in Survey No.114/5 but not in the suit survey No.114/1. Therefore, the suit prayer *prima facie* would not become infructuous. Even assuming the service connection is effected in respect of well in suit survey number, it is always open to the petitioner to resist the suit on the ground that prayer had become infructuous. The same cannot be a ground for seeking rejection of the plaint under Order VII Rule 11 of CPC. Therefore, I do not find anything to interfere with the order passed by the Court below.



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6. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

31.01.2024

Index : Yes / No
Internet : Yes / No
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To

The learned Principal District Munsif, Tiruchengode



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S.SOUNTHAR, J.

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