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WP.No.23626 of 2024

In the High Court of Judicature at Madras

Dated : 20.8.2024

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.23626 of 2024 &
WMP.Nos.25841 & 25842 of 2024

N.Amsaveni

...Petitioner

Vs

- 1.The Tamil Nadu Electricity Ombudsman,
The Appellate Authority,
4th Floor, SIDCO Corporate Office Building,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai-32.
- 2.The Consumer Grievance Redressal Forum,
The Original Authority,
Udumalai Electricity Distribution Circle,
Udumalai.
- 3.The Superintending Engineer,
Udumalai Electricity Distribution Circle,
Tamil Nadu Electricity Generation & Distribution Corporation,
Thiruppur Road, Udumalai-642126.
- 4.The Executive Engineer,
Angalakurichi,
Udumalai Electricity Distribution Circle,
Tamil Nadu Electricity Generation
& Distribution Corporation.
- 5.The Assistant Engineer,
Devanoorpudhur West,
Udumalai Electricity Distribution Circle,
Tamil Nadu Electricity Generation
& Distribution Corporation.



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6.N.Shanmugavel

...Respondents

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PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the Tamil Nadu Electricity Ombudsman - the 1st respondent herein being the Appellate Authority vide Letter No.TN.CGRF/Petition No.199/A.No.334/2022 dated 17.3.2022 and the Consumer Grievance Redressal Forum - the 2nd respondent herein being the Original Authority vide CGRF/Udt-No.30/2021-22 by order dated 25.2.2022, quash the same and further direct the respondents to disconnect the illegal granting of agricultural service connection No. 333-004-146 granted in the name of Mr.Shamugavel S/o.Nachimuthu Gounder at Survey No.139/1 from his father's name Mr.Nachimuthu Gounder and illegally shifting of agricultural service connection No.333-004-146 in the name of Mr.Shanmugavel, S/o.Nachimuthu Gounder from survey No.139/1 to survey No.140/1 and to restore agricultural service connection No.333-004-146 at survey No.139/1 in the names of the co-sharers.

For Petitioner : Mr.A.Kumar
For R1 to R5 : Mr.Jai Venkatesh
Standing Counsel

O R D E R

The writ petition has been filed challenging the proceedings dated 25.2.2022, in and by which, the second respondent - Original Authority rejected the grievance petition of the petitioner dated 08.12.2021 seeking to cancel the agricultural service connection



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granted in favour of the sixth respondent from his father's name and the subsequent illegal shifting of the agricultural service connection from S.No.139/1 to S.No.140/1 and to restore the agricultural service connection from S.No.140/1 to S.No.139/1 in the names of the co-sharers of the agricultural lands.

2. The petitioner also challenged the proceedings dated 17.3.2022, by which, the first respondent - Appellate Authority rejected the appeal petition dated 09.3.2022 filed by the petitioner. In this writ petition, the petitioner also sought for a direction to respondents 1 to 5 to disconnect the illegal granting of agricultural service connection granted in the name of the sixth respondent at Survey No.139/1 from his father's name - one Mr.Nachimuthu Gounder and the illegal shifting of agricultural service connection in the name of the sixth respondent from S.No.139/1 to S.No.140/1 and to restore the agricultural service connection at S.No.139/1 in the names of the co-sharers.

3. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for respondents 1 to 5. In the light of the nature of order this Court proposes to pass, the writ petition itself is taken up for final disposal without ordering notice to the sixth



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respondent.
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4. The case of the petitioner is as follows :

(i) Originally, the agricultural lands in S.No.139/1 and the agricultural electricity service connection bearing No.333-004-146 situated at Jallipatti Village, Annamalai Taluk, Coimbatore District were owned and possessed by the father of the sixth respondent - one Mr.Nachimuthu Gounder through a partition deed dated 27.9.1963 vide Doc.No.765 of 1963 on the file of the Sub-Registrar, Annamalai.

(ii) The father of the sixth respondent had four sons and after his demise, their sons partitioned the agricultural lands among themselves through the partition deed dated 06.11.1974 vide Doc.No.1187 of 1974 on the file of the Sub-Registrar, Annamalai. Further, both the well as well as the agricultural electricity service connection was commonly owned by the co-sharers. Even during the lifetime of the father of the sixth respondent, in the year 1973, the agricultural electricity service connection was illegally granted in the name of the sixth respondent without the consent of his father and with the assistance of respondents 3 to 5 whereas the Village Administrative Officer, Jallipatti gave a certificate dated 06.1.2007 to the effect that the agricultural electricity service connection has been



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commonly owned and enjoyed by the co-sharers.

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(iii) That being so, Mr.Chinnaduari - one of the co-sharers of the agricultural land sold his portion of the agricultural land and his share in the well along with the share in the agricultural electricity service connection in favour of the petitioner through the sale deed dated 03.9.1987 vide Doc.No.1014 of 1987 on the file of the Sub-Registrar, Annamalai. Thereafter, the petitioner became the owner of that portion of the agricultural land with 1/4th share in the well and 1/4th share in the agricultural electricity service connection, which were earlier owned by the said Mr.Chinnadurai.

(iv) The sixth respondent illegally shifted the agricultural electricity service connection from the agricultural land and the well situated in S.No.139/1 to his bore well situated at the agricultural land in S.No.140/1 without obtaining the no objection certificate or consent letter from the other co-sharers and with the aid and assistance of respondents 3 to 5 by not ascertaining the ownership and possession.

(v) The action of respondents 3 to 5 in effecting the shifting of the agricultural electricity service connection by getting an indemnity bond from the sixth respondent is illegal. During the lifetime of his father, the sixth respondent, along with the indemnity bond, gave an undertaking letter dated 05.7.2014 absolving all the liabilities for



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court cases that would arise in the event of granting the agricultural service connection in his name.

(vi) In the earlier orders passed by the second respondent, it has been held that as per Regulation 27(4) of the Tamil Nadu Electricity Distribution Code, 2004 (for short, the Code), in case of the agricultural service connection, the indemnity bond is not applicable and that either the no objection certificate or the consent letter is mandatory from the co-sharers of the agricultural well and the agricultural electricity service connection in the agricultural land, which is owned and possessed by the co-sharers. The second respondent also held in the other case that for shifting the agricultural electricity service connection from the existing location to the proposed location, the agricultural lands, the wells and the agricultural electricity service connection in both the existing location as well as the proposed location should be owned by the same person.

(vii) Further, a first information report in Crime No.14 of 2016 has also been registered against the sixth respondent under Sections 417, 468 and 471 of the Indian Penal Code. The patta for the lands in both S.Nos.139/1 and 140/1 stands in the name of the co-sharers. In the application dated 26.2.2007 for shifting the agricultural electricity service connection from S.No.139/1 to S.No.140/1, the sixth



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respondent stated that the well in the existing location in S.No.139/1 dried up whereas the agricultural well in S.No.139/1 is always used for irrigation.

(viii) A Division Bench of this Court in W.A.No.261 of 2015, by judgment dated 23.4.2015, held that the act of getting the indemnity bond to effect the service connection as in the case of domestic electricity service connection under Regulation 27(4) of the Code will not be applicable to the agricultural electricity service connection under Section 27(2) of the Code and that if there are co-sharers in the property and the electricity service connection, a no objection certificate or consent letter from all the co-sharers is mandatory before applying for shifting the agricultural electricity service connection.

(ix) When things stood thus, the petitioner preferred a grievance petition before the second respondent on 08.12.2021 citing all the above facts. However, without considering the merits of the case and without following their own earlier decisions, it was rejected by order dated 25.2.2022. Thereafter, challenging the same, the petitioner preferred an appeal petition before the first respondent on 09.3.2022 and it was also rejected by order dated 17.3.2022. Aggrieved by both the orders dated 25.2.2022 and 17.3.2022, the petitioner is before this Court.



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5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned orders.

6. The crux of the matter is that the petitioner is aggrieved by the shifting of the agricultural electricity service connection from S.No.139/1 to S.No.140/1 with the connivance of respondents 3 to 5 and without obtaining the no objection certificate from the other co-sharers.

7. In the considered view of this Court, the petitioner has to ventilate her grievance only before the competent civil court and not before this Court. Before the civil court, elaborate evidence will be recorded, based on which, a comprehensive decision can be taken. After getting a favourable decision from the civil court in the suit to be filed by the petitioner, she has to approach the concerned Authority by making an application in a manner known to law.



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8. Accordingly, the writ petition is dismissed with the above observations. No costs. Consequently, the connected WMPs are also dismissed.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
ssb

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