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W.A. No.2926 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 11.11.2024

DELIVERED ON:20.11.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.2926 of 2024

and CMP. No.21613 & 21614 of 2024

Mr.Rajesh Das

.. Appellant

Vs

- 1.The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Rep. by its Managing Director,
NPKRR Maaligai, 144 Anna Salai,
Chennai – 600 002.
- 2.The Superintending Engineer,
TANGEDCO, No.130,
GST Road, Chengalpet – 603 001.
- 3.Executive Engineer,
TANGEDCO, No.130,
GST Road, Chengalpet – 603 001.
- 4.Mr.Parthiban
5. Assistant Engineer,



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TANGEDCO,
33 KV SS Complex,
Gangaiamman Koil Street,
Sathankuppam, Kelambakkam,
Chengalpet – 603 103.

6.Dr.Beela Venkatesan

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal to set aside the order dated 11.06.2024 in W.P. No.14128 of 2024.

For Appellant : Mr.Vijaya Mehnath for
Mr.Tashi Anil

For Respondents : Mr.P.Kumaresan,
Additional Advocate General,
assisted by Mr.L.Jai Venkatesh,
Standing Counsel for R1 to R5
Mr.Darshit B.Jain for
M/s.P.Wilson Associates for R6

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The writ petitioner, aggrieved by the dismissal of Writ Petition No.14128 of 2024, by order dated 11.06.2024, is the appellant before us.

2. Before the Writ Court, the appellant prayed for a Writ of



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Mandamus directing the respondents 1 to 5 to not disturb power supply to his residence at No.1, DG Gardens, Komanagar, Thaiyur, Kelambakkam, Chennai-603 103 in respect of service connection No.09577010390, as long as the energy consumption charges are duly paid.

3. The Writ Court, after hearing the parties, dismissed the Writ Petition. Aggrieved by the said order, the writ petitioner has preferred the present Writ Appeal.

4. We have heard Mr.Vijaya Mehnath for Mr.Tashi Anil, learned counsel for the Appellant and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.L.Jai Venkatesh, learned standing counsel for TANGEDCO, respondents 1 to 5 and Mr.Darshit B.Jain for M/s. P.Wilson Associates, learned counsel for the private respondent, viz., R6.

5. The learned counsel for the appellant would submit that the appellant being the co-owner of the property and residing in the property, paying electricity consumption charges, was entitled to continued supply. The learned counsel would further state that the 6th respondent had made



false allegations against the appellant, based on which the appellant was also suspended from service and subsequently, the 6th respondent had withdrawn the complaint after perusing the closure report which clearly exposed the complaint to be false.

6. The learned counsel for the appellant would further submit that the Writ Court has erroneously referred to suo moto of the Writ Court orders' when the Hon'ble Supreme Court had expunged the said observations in Sua Moto orders and directed the trial to be conducted without being influenced by any of the observations made by the Writ Court. The learned counsel would future submit that when the appellant had clearly established to be in physical possession of the property, the Writ Court ought not to have dismissed the writ petition. Further the learned counsel would also submit that the entire exercise has been masterminded by the 6th respondent, by misusing her power, influencing subordinate Officers in the Electricity Department and there is absolutely no justification for disconnection of the basic amenity, viz., the electricity. The learned counsel would therefore pray for the Writ Appeal being allowed.

7. Per contra, the learned Additional Advocate General appearing for



R1 to R5 would submit that the Department has acted only pursuant to the request of the 6th respondent who is the owner of the property in question and therefore, there is nothing illegal or improper in disconnection effected by the electricity authorities. He would further contend that the Writ Court has rightly considered the submissions and dismissed the Writ Petition. The 6th respondent, wife of the Writ Appellant would submit that the appellant has approached the Court with a false case that the appellant is residing in the subject property, which absolutely belongs to the 6th respondent and all these had been rightly factored by the Writ Court in coming to a conclusion that the Writ Petition was liable to be dismissed and the learned counsel would therefore pray for the Writ Appeal also being dismissed.

8. We have carefully considered the rival submissions advanced by the learned counsel on either side. We have gone through the records and also the order of the Writ Court.

9. It is the case of the appellant that he is a co-owner of the subject property and that he is a permanent resident of the said property. It is also his specific case that matrimonial proceedings are pending between the



appellant and the 6th respondent. There is no dispute with regard to the fact that the electricity service connection stands in the name of the 6th respondent, wife. It is also a specific stand that she has made a representation to the authorities to disconnect the electricity supply and acting on the said representation of the 6th respondent, the authorities have disconnected the supply. Aggrieved by the said action, the appellant made a complaint on 21.05.2024 seeking restoration of the electricity service connection, alleging that the disconnection was at the behest of the 6th respondent abusing her power as Principal Secretary, Energy Department, Government of Tamil Nadu.

10. It is also borne out by records that the 6th respondent has settled the subject property in favour of her two daughters in and by settlement deed dated 12.10.2023, registered as document No.13169/2023 on the file of Sub-Registrar, Neelankarai. The request of the 6th respondent for disconnection of the connection is also supported by e-mails from the present owners viz., the daughters of the 6th respondent who have also sought for service connections to be disconnected. Merely by stating that the housing loan is obtained in the name of the appellant/petitioner also and that the appellant



had been remitting monthly instalments towards repayment, will not clothe the writ appellant with any rights in the property, which belonged to the 6th respondent and now, the daughters of the 6th respondent. Even with regard to actual physical possession, the claim of the appellant being in physical possession is disputed by the 6th respondent. The claim of paying the electricity consumption charges for about 25 years is also self serving and the Writ Court has rightly disbelieved such self serving claims made by the appellant.

11. The writ court has rightly held that the proof of occupation of the property and that the appellant was in physical possession of the property are all questions of fact which cannot be decided by the Writ Court, exercising jurisdiction under Article 226 of the Constitution of India and rightly held that these factual issues can only be gone into by a competent Civil Court. The Writ Court has also rightly held that no Mandamus can be issued in favour of the appellant as prayed for, in view of the disputed questions of fact being canvassed by the appellant and the 6th respondent. The Writ Court has rightly dismissed the Writ Petition holding that under Article 226 of the Constitution of India disputed questions of fact cannot be



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gone into. We do not see any merit in the contentions advanced on the side of the Appellant. We also see no reasons to interfere with the well considered order of the Writ Court.

12. In fine, Writ Appeal is dismissed. It is needless to state that the appellant shall have liberty to approach the competent Court to seek appropriate relief including restoration of the electricity service connection and in such event, the Court concerned shall decide the matter in accordance with law, after affording a fair opportunity to the 6th respondent, without being influenced by any of the observations or findings of the Writ Court or even this Court. Consequently, connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

(D.K.K.J.,) (P.B.B.J.,)

20.11.2024

Internet: Yes/No
Index : Yes/No
Speaking Order/Non Speaking Order
rkp

To

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and
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Pre-delivery Judgment in
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