



S.A.No.1322 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

S.A.No.1322 of 2009

G.Kasi Ammal

... Appellant

vs.

1. R.Ponnusami

2. The Superintending Engineer,
TNEB, Vengikkal,
Tiruvannamalai.

3. The Executive Engineer,
O & M – West, TNEB,
Vengikkal,
Tiruvannamalai.

4. The Junior Engineer,
O & M TNEB,
Thanipadi,
Tiruvannamalai District.

..Respondents

PRAYER: Second Appeal filed under Section 100 of Civil Procedure Code against the Decree and Judgment dated 05.10.2009 in A.S.No.49 of 2006 on the file of the Subordinate Judge, Tiruvannamalai reversing the Decree and Judgment, dated 27.02.2006 in O.S.No.157 of 2005 on the file of the District Munsif, Tiruvannamalai.

For Appellants : Mr.S.Ambigapathi



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For Respondents : Mr.G.Rajan for R1
Mrs.Hemalatha Gajendran,
Standing Counsel for R2 to R4

JUDGMENT

The fourth defendant in O.S.No.157 of 2005 on the file of the Principal District Munsif, Tiruvannamalai is the appellant herein. The said suit in O.S.No.157 of 2005 had been filed by the first respondent herein viz., R.Ponnusami seeking a declaration that the order passed by the second defendant, the Executive Engineer, O&M West, TNEB Vengikkal, Tiruvannamalai, dated 23.12.2004 as null and void and for a mandatory injunction directing the second defendant to issue readiness notice to the plaintiff on the basis of application dated 02.01.1985 in seniority No.3186 and effect service connection to the schedule mentioned well and permanent injunction restraining the first and third defendants from granting service connection to the fourth defendant.

2. In the plaint, it had been stated that the plaintiff was the owner of the land and well situated in Survey No.197 / 1D at P.Quilam Village at Tiruvannamalai. He had applied for 5 H.P Electricity Service Connection for agricultural purpose with the first, second and third defendants for his well in the said lands. His application had been



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registered with seniority number 3186. It had been contended that the first to third defendants will have to effect service connection only in accordance with priority. It had been stated that the second defendant had issued a letter dated 07.12.2004 that his application had been taken up for consideration and he was directed to produce ownership certificate issued by the Village Administrative Officer. He was also directed to produce particulars of the electric motor and purchase of the same. Thereafter, the second defendant had issued a further communication on 23.12.2004 that the fourth defendant had purchased the well in service connection No.197/1D and that the plaintiff had issued no objection to effect electricity service connection to the fourth defendant on the application dated 02.01.1985 given by the plaintiff. The second defendant had therefore stated that they would effect electricity service connection to the said well which was now in the land of the fourth defendant. Questioning this particular communication by the second defendant and stating that the electricity connection should be granted to the plaintiff alone and not to the fourth defendant, the suit had been filed seeking a declaration that the order is void and for a mandatory injunction directing the defendants to effect service connection to the plaintiff alone and not to the fourth defendant.



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3. A written statement has been filed by the fourth defendant contending that the plaintiff was the owner of the land in S.No.197/1I measuring 2.04 acres and owner of 1/5th share in Survey No.197/1G. It had been stated that the fourth defendant had purchased the said property together with well from the plaintiff for a valuable consideration of Rs.12,100/- under a registered sale deed, dated 12.05.1986. It had been further stated that fourth defendant had also preferred an application to the first - third defendants on 02.01.1985 seeking electricity connection for the well in S.No.197/1D which should have been actually in S.No.197/1G. It had been further stated that the plaintiff had also issued 'no objection letter' for grant of electricity service connection to the fourth defendant. It has thus been stated that the suit will have to be necessarily dismissed as the plaintiff had sold the land and the plaintiff has no longer control over the well and that the fourth defendant had also applied for electricity service connection and that the plaintiff had also issued no objection for grant of electricity service connection for the fourth defendant.

4. On the basis of the pleadings, the learned District Munsif at Tiruvannamalai had framed the following issues :



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1. *Whether the order passed by the second defendant in letter*

E.E.No.352/04 dated 23.12.2004 is null and void?

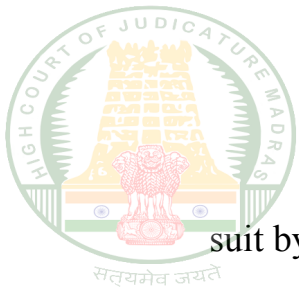
2. *Whether the plaintiff is entitled to the relief of mandatory injunction as prayed for?*

3. *Whether the plaintiff is entitled to the relief of permanent injunction as against the defendants 1 to 3?*

4. *What other relief the plaintiff is entitled to?*

5. The plaintiff had examined one witness and marked Ex.A1 to Ex.A10. The defendants had examined four witnesses and marked Ex.B1 to Ex.B7.

6. The learned District Munsif had examined the documents filed, particularly, Ex.B2, dated 12.05.1986 which is the sale deed executed by the plaintiff to the fourth defendant and Ex.B1, the consent letter given by the plaintiff and Ex.B3, dated 01.02.2005 which is the ownership certificate given by the Tahsildar, Chengam to the fourth defendant and UDR Patta standing in the name of the fourth defendant and the extract of the 'A' Register for Survey Nos.197/1G, 197/1I. The Trial Court, on appreciation of the above documents had dismissed the



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suit by Judgment dated 27.02.2006.

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7. The plaintiff had then filed A.S.No.49 of 2006 which came up for consideration before the Principal Sub Court, Tiruvannamalai. By Judgment dated 05.10.2009, the learned Sub Judge had again re-appreciated the evidence and had placed reliance on the case of the plaintiff that he had signed in several blank papers which according to the Appellate Judge had also been admitted by the fourth defendant and therefore rejected the consent letter. It was also stated that there was no evidence on the side of the Electricity Board to substantiate under what authority they had transferred the seniority electricity service connection assigned by the appellant therein to the fourth respondent therein. On the basis of such evidence, the first Appellate Court had reversed the Judgment and Decree of the trial Court and had proceeded to Decree the suit. This had necessitated the fourth defendant to present the second appeal.

8. The Second Appeal has been admitted on the following substantial questions of law:

1. Whether the seller can claim over any right attached to the



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alienated property of alienating the same to a third party?

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3. *Whether the electricity department has got any right to make any alteration in the priority connection number on the subsequent request of the party?*

9. All the three substantial questions of law relate to the right attached to the alienated property by a seller with respect to the electricity service connection and whether the Electricity Department had any right to make any alteration in priority connection number.

10. Heard the learned counsel for the appellant and the learned standing counsel appearing for the second and fourth respondents. The learned counsel for the first respondent is absent.

11. It is stated on behalf of the second, third and fourth respondents that the service connection had been granted to the appellant only on the basis of the Certificate Ex.B3, issued by the Tahsildar that the fourth respondent was the owner of the land and that the well is situated in



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survey number 197/II and 197/IG. It is further seen from the records that

the said property had been purchased by the appellant from the first respondent by registered sale deed which had been marked as Ex.B2. Even if no reliance is placed on Ex.B1, consent letter under Ex.B2, the vendor had transferred his right and title over everything which was available on the land including the well. Naturally, the appellant had also acquired the right to obtain service connection.

12. It is also informed to this Court that the first respondent had purchased alternate lands and electricity service connection had also been granted to that particular land. Thus the first respondent had also obtained his electricity service connection and would not be therefore put to any hardship. The electricity service connection already granted to the appellant herein is directed to be retained in the name of the appellant.

13. The three substantial questions of law therefore become redundant. On facts, it is to be noted that the first respondent had purchased alternate lands and had obtained electricity connection and the appellant herein has been in continuous occupation of the land which she had purchased under Ex.B2 and has been enjoying the service connection



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right from the date on which it had been granted.

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14. No further issues arises for consideration. The Second Appeal stands allowed. The Judgment and Decree of the first Appellate Court stands reversed. The Decree of the trial Court is confirmed. No costs.

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vum

Index : Yes/No

Speaking / Non-speaking order

Neutral Citation : Yes / No

C.V.KARTHIKEYAN, J.

vum

To

1. The Subordinate Judge, Tiruvannamalai.
2. The District Munsif, Tiruvannamalai.
3. The Section Officer, VR Section, High Court, Madras.

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