

W.A.(MD)No.539 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.539 of 2025
and
C.M.P.(MD)No.4154 of 2025**

1.A.P.John
2.Franklin Jose

... Appellants

Vs.

1.Merlin James

2.The Assistant Electrical Engineer (Distribution),
TANGEDCO, Muthiahpuram,
Tuticorin.

3.The Executive Engineer (Distribution),
TANGEDCO, Muthiahpuram,
Tuticorin.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.10 of 2025, dated 03.01.2025.

For Appellants :Mr.V.Shathurthi Raja
For R2 and R3 :Mr.S.Deenadhayalan
Standing Counsel



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JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The writ appeal is filed by appellants who were arrayed as 3rd and 4th respondents in the writ petition against the order, dated 03.01.2025, passed in W.P. (MD)No.10 of 2025.

2. The writ petition was filed for issuance of Writ of Certiorarified Mandamus, to quash the order, dated 10.12.2024, passed by the 1st respondent and to direct the respondents 1 and 2 to provide electricity supply connection to the petitioner's house in the ground floor No.4/180/2, Sundaram Nagar, Muthiahpuram, Tuticorin – 628 005.

3. In the order, dated 10.12.2024, passed by the 2nd respondent herein had declined to grant electricity service connection to the writ petitioner. Challenging the same, the writ petition was filed.

4. The Learned Standing Counsel appearing for the TANGEDCO submitted that due to objections raised by the writ petitioner's brothers who are shown as



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respondents 3 and 4 in the writ petition, the writ petitioner's application was rejected. Further the writ petitioner sought service connection based on the settlement deed, but later on the said settlement deed was cancelled by the settler. Therefore, the writ petitioner is not having any valid title over the disputed property, hence the application was declined on this ground also.

5. After considering the rival submissions, the Writ Court directed the 1st respondent to provide electricity connection forthwith. Aggrieved over the same, the present writ appeal is filed by the appellants who were arrayed as respondents 3 and 4 in the writ petition.

6. The primary contention is that the Writ Court had passed the order without issuing notice to the appellants. In the present case, the appellants are heard. Therefore, opportunity is granted in the appellate stage and the said ground is no more available to the appellants.

7. The next contention of the appellants is that there is a civil dispute pending between the 1st respondent herein / writ petitioner and the appellants and the writ petitioner had deliberately and wilfully suppressed certain material facts.



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It is seen that the 1st respondent herein / writ petitioner had already filed O.S.No. 276 of 2022, wherein it is prayed that the suit property was not partition, in such circumstances to grant permanent injunction against the defendants (namely John and Franklin Jose who are the appellants herein) thereby restrain the defendants from selling or encumbering the property. Admittedly, a civil suit is pending between the parties. But any pending suit will not be an impediment to grant electricity connection, if the suit is decided based on documents irrespective of electricity connection. In other words, the parties are bound to prove their rights independently through documents without relying on the grant of electricity connection. Therefore, this objection is not valid legal ground.

8. The contention of the writ petitioner is that he is residing in Abu Dhabi due to his avocation and his wife and three children are living in a portion of the ground floor and in another portion, the appellants are residing. But the contention of the appellants is that already there are three service connections, i.e., one for 1st floor domestic consumption and other two for commercial purposes for running Bharath Nursery and Primary School. The two commercial connections are for the ground floor to run the said school and the domestic connection is granted for the 1st floor. In such circumstances, new connection



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cannot be provided for ground floor. Further the writ petitioner's family is not residing in the said disputed site but they are living elsewhere. After hearing the rival claims this Court is of the considered opinion that if the writ petitioner's family is residing in the dispute site, then they are entitled for new service connection. Of course, the service connection can be granted if there is physical segregation for the ground floor.

9. The next contention of the appellants is that the writ petitioner has submitted an application along with the settlement deed, but the said settlement deed was cancelled by the settler. The writ petitioner had submitted the settlement deed which was executed in his favour, once the settlement is executed, then unilateral cancellation is illegal, hence the writ petitioner has sought electricity connection through the settlement deed. This Court is of the considered opinion that the law is settled by the Hon'ble Full Bench that the settlement cannot be unilateral cancelled. Therefore, by citing the unilateral cancellation the TANGEDCO cannot deny service connection.

10. The next contention of the appellants is that the writ petitioner had not submitted co-owner's consent letters and had not submitted the recent property tax



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receipt, hence the TANGEDCO cannot provide electricity service connection. As far as the consent letters from co-owners are concerned, the TANGEDCO is empowered to grant electricity connection after obtaining indemnity bond in Form No.6. As far as non-production of latest property tax receipt is concerned, it is seen that the appellants had submitted objection before the Municipality for accepting the property tax and issuing receipt. This Court is of the considered opinion this is not the concern of the TANGEDCO. Further once the indemnity bond is issued, the same would cover the non-production of latest property tax receipts. Therefore, there is no impediment for the TANGEDCO to grant electricity service connection after obtaining the indemnity bond along with the settlement deed.

11. Therefore, this Court is of the considered opinion that the writ petitioner is entitled to get new electricity service connection since electricity connection is an essential commodity. Hence there is no infirmity in the order passed by the Writ Court.

12. For the reasons stated supra, the following orders are passed:



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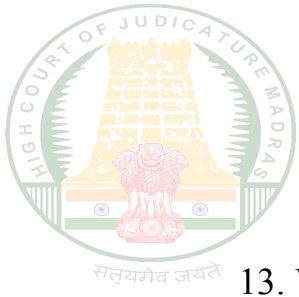
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i. The writ petitioner is entitled to new electricity connection, but the same is subject to the result of civil litigation pending between parties.

ii. The writ petitioner shall submit an undertaking stating in case if the civil dispute ends against the writ petitioner, he is willing to disconnect the electricity service connection.

iii. It is made clear the grant of electricity connection will not create any right to the writ petitioner over the property, the Civil Court shall determine the rights of the parties independently based on the records and documents submitted by the parties. The Civil Court shall consider the suit uninfluenced by any observation passed by this Court and the order passed by the Writ Court.

iv. The writ petitioner shall execute indemnity bond in Form No.6 and the TANGEDCO shall ascertain physical segregation and thereafter grant electricity after obtaining indemnity bond in Form No. 6.



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13. With the above said directions, the writ appeal is dismissed, confirming the order passed in the writ petition. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
13.03.2025

Index : Yes / No

Tmg

To:

- 1.The Assistant Electrical Engineer (Distribution),
TANGEDCO, Muthiahpuram,
Tuticorin.
- 2.The Executive Engineer (Distribution),
TANGEDCO, Muthiahpuram,
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