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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.2942 of 2023

1.R.Gunasekaran

2.V.Ramalingam

...Revision Petitioners/Petitioners/Defendants 5 & 6

Vs

1.S.Sundararaj

2.The Superintending Engineer,
Electricity Distribution Circle,
Tamil Nadu Electricity Generation Corporation,
Covai Road, Karur.

3.The Executive Engineer (Operation & Maintenance),
Rural Division,
Electricity Distribution Circle,
Tamil Nadu Electricity Generation Corporation,
Covai Road, Karur.

4.The Assistant Executive Engineer,
Operation & Maintenance South,
Electricity Distribution Circle,
Tamil Nadu Electricity Generation Corporation,
Covai Road, Karur.



5.The Assistant Engineer,
(Operation and Maintenance South Rural),
Rayanoor,
Electricity Distribution Circle,
Tamil Nadu Electricity Generation Corporation,
Rayanoor, Karur.

...Respondents/Respondents/Plaintiff & Defendants 1 to 4

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order passed in I.A.No.03 of 2020 in I.A. No.657 of 2018 in O.S.No.242 of 2018 dated 28.03.2023 on the file of the Additional District Munsif, Karur.

For Petitioners : Mr.K.Suresh

For Respondents : Mr.V.Balaji for R1
No appearance for R2 to R5

* * * * *

ORDER

The defendants 5 & 6 in O.S.No.242 of 2018, on the file of the Additional District Munsif Court, Karur, have filed the present revision petition challenging the dismissal of their application filed under Section 151 of C.P.C. seeking clarification of the order passed in I.A.No.657 of 2018.

2.A perusal of the records reveal that the first respondent herein as plaintiff has filed the above said suit for the relief of permanent injunction restraining the defendants 5 & 6 from in any manner obtaining agricultural



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service connection from the Electricity Board by claiming the title over the entire suit in S.F.No.273/3.

3.A perusal of paragraph Nos.9, 10 and 13 of the plaint reveal that there is a dispute between the plaintiff and the defendants 5 & 6 with regard to the extent of the entitlement of the defendants in S.No.273/3. However, it is admitted by the plaintiff that the defendants 5 & 6 are entitled to an extent of 3.51 acres on the southern side of S.No.273/3. The suit has been filed on the apprehension that the defendants 5 & 6 are claiming the title over the entire extent of S.No.273/3 and they are trying to get service connection from the Electricity Board.

4.Pending suit, the plaintiff has filed I.A.No.657 of 2018, seeking an order of temporary injunction restraining the defendants 5 & 6 from getting any service connection over the entire extent of S.No.273/3. The trial Court has passed an order on 30.11.2018, which is extracted as follows:-

“Upon perusal of petition and counter, it reveals that the petitioner admitted that the respondent is entitled to an extent of Ac.3.51 cents in suit survey field and upon perusal of Ex.P11 and Ex.P12, it reveals that already written statement in O.S.No.38/2016 was filed by this respondent by claiming adverse possession. Hence this



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Court feels there exists prima facie case, balance of convenience lies in favour of petitioner. But upon considering the loss of seniority in availing such electric service connection for agricultural subsidy. This respondent is liberty to applied for such agricultural subsidy electric service connection without mentioning about the disputed property, because the issues between the parties were decided only at the end of trial, With the above said liberty to the respondent. This petition is allowed. No costs. “

5.The defendants 5 & 6, entertaining the doubts in the order passed in I.A.No.657 of 2018, had filed I.A.No.3 of 2020 under Section 151 of C.P.C. seeking clarification from the Court to the effect that whether permission has been granted by the Court to the defendants to get service connection with regard to S.F.No.273/3 or not.

6.The trial Court after considering the submissions made on either side has passed classificatory orders to the effect that the permission has not been granted to the defendants 5 & 6 to get service connection to S.F.No.273/3. Challenging the same, the present revision petition has been filed.

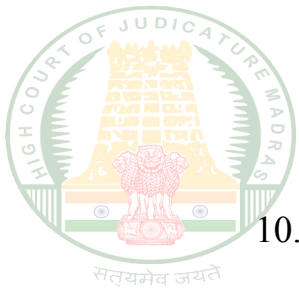


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7. According to the learned Counsel appearing for the revision petitioner, there is no dispute that the defendants 5 & 6 are having rights over some extent of land in S.No.273/3. Whether the defendants have got right over the entire extent of the above said survey number, is in dispute and it has to be decided during trial. In such circumstances, the Electricity Board, by way of seniority have come forward to provide service connection to the defendants 5 & 6 for S.F.No.273/3. Without going into the issue of extent of the entitlement of the defendants 5 & 6 in S.F.No.273/3, the Electricity Board authorities may be directed to give service connection to the admitted extent of the land in the said survey number.

8. Per contra, the learned Counsel appearing for the respondents has submitted that the defendants 5 & 6 have approached the Electricity Board claiming title over the entire extent of S.No.273/3. In case, if service connection is extended to them, they are likely to use this as an evidence in the suit. He has also contended that in view of the dispute between the parties, an appeal is also pending before the revenue authorities for mutation of the revenue records.

9. I have considered the submissions made on either side and perused the materials available on record.



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10. From the facts extracted above, it is clear that there is a dispute between the defendants and the plaintiff with regard to the extent of right of the defendants 5 & 6 in S.F.No.273/3. However, even as per the admitted case of the plaintiff, the defendants are entitled to an extent of 3.51 acres on the southern side of S.No.273/3. Therefore, there cannot be any legal impediment for the Electricity Board to provide free service connection to the defendants 5 & 6 to an extent of 3.51 acres in S.No.273/3. The defendants 5 & 6 can also utilise the said service connection only to an extent of 3.51 acres till the disposal of the suit.

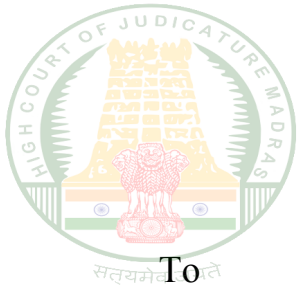
11. It is hereby clarified that the revision petitioners/defendants 5 and 6 shall be entitled to receive free electricity service connection for an extent of 3.51 acres on the southern side of S.No.273/3 pending disposal of the suit.

12. Considering the fact that the suit is of the year 2018, the trial Court is directed to dispose of the suit on or before **31.12.2025**.

13. With the above said observations, this Civil Revision Petition stands disposed of. No costs.

09.04.2025
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Internet: Yes/No
Index: Yes/No
RJR



To

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The learned Additional District Munsif,
Karur.

Copy to:-

The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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