

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2010

CORAM

THE HONOURABLE MR. JUSTICE K.VENKATARAMAN

Writ Petition No.16859 of 2010
and
M.P.No.1 of 2010

S.Gnaneswari

..Petitioner

vs

1.The Junior Engineer (O & M),
Tamil Nadu Electricity Board,
Arakkonam, Vellore District.

2.A.D.Kamalakannan

..Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus to call for the records of the first respondent in Lr.No.JE/O&M/Town/AJJ/F/V.No.97/10 dated 29.6.2010 and directing the first respondent to restore domestic electricity service connection in S.C.No.246 to the petitioner's premises at LIG -308-I, Tamil Nadu Housing Board, Arakkonam, Vellore District.

For Petitioner : Mr.G.Jermiah, for
Mr.S.Gowri Shankar
For Respondents : Mr.P.Srinivas, for R.1
No appearance for R.2

सत्यमेव जयते
O R D E R

Heard Mr.G.Jermiah, learned counsel appearing for the petitioner and Mr.P.Srinivas, learned counsel appearing for the first respondent.

2. Though the second respondent was served and his name appears in the cause list, he has not chosen to appear before this Court either in person or through counsel. Hence, the main writ petition itself is taken up for final disposal.

3. Challenging the proceedings of the first respondent dated 29.6.2010 effecting name transfer, viz., the name of the second respondent and also disconnecting the electricity service connection

available to the property in question on the request made by the second respondent, the present writ petition has been filed.

4. The short facts which are necessary for the disposal of the present writ petition are set out here under:-

(a) The property bearing Door No.LIG-308-I, Tamil Nadu Housing Board, Arakkonam, Vellore District was originally allotted in favour of one Saraswathy. She in turn sold the same to one Nalini, who in turn, has sold the same to the second respondent. Thus, the second respondent is the owner of the property in question.

(b) The petitioner had entered into an agreement with the original allottee Saraswathy on 18.3.1992 and she has been put in possession of the same as per the agreement of sale. Since the said Saraswathi has failed to execute the sale deed in her favour, the petitioner has filed a suit in O.S.No.21 of 2010 on the file of the learned District Munsif, Arakkonam for specific performance of an agreement of sale and the same is pending. While so, at the instance of the second respondent, who is said to have purchased the property, electricity connection was disconnected by the first respondent.

Hence, the petitioner has approached this Court by filing the present writ petition for the relief set out earlier.

5. Learned counsel appearing for the first respondent Board submitted that since the second respondent has produced documents to show that he is the owner of the property and also sought for name change, the same was carried out by the first respondent after perusing the documents. Since the second respondent is the owner of the property, on his request, electricity connection was disconnected for the said property.

6. I have considered the submissions made by the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

7. It is not in dispute that the property in question originally belonged to one Saraswathy. It has also been established that the petitioner entered into an agreement of sale with the said Saraswathi on 18.3.1992. The agreement of sale speaks about the handing over of the possession to the petitioner. The petitioner admittedly filed a suit in O.S.No.21 of 2010 on the file of the learned District Munsif, Arakkonam against the said Saraswathy, Nalini who is said to have purchased the property from Saraswathy and the second respondent herein, who is said to have purchased the property from the said Nalini. The suit is still pending before the said Court. At the request of the second respondent, name change was made by the first respondent which cannot be faulted with, since the second respondent is now the owner of the property by virtue of the

purchase made by him. But, however, the electricity connection for the said property ought not to have been disconnected at the instance of the second respondent, who is the owner of the property. The petitioner, who has been put in possession of the property by the erstwhile owner, as stated already, filed a suit for specific performance and the same is pending on the file of the said Court. Hence, it cannot be stated that the possession of the petitioner is unlawful. In such circumstances, it would be more appropriate for the petitioner to approach the first respondent seeking separate electricity service connection in her name. As and when such electricity connection is sought for by the petitioner in her name, it is open to the first respondent to consider her claim and pass appropriate orders on merits and in accordance with law.

8. Taking into consideration the said facts and circumstances, though I am not inclined to set aside the impugned order of the first respondent dated 29.6.2010, I am inclined to pass the following order:-

(i) The petitioner is directed to approach the first respondent seeking separate electricity service connection in her name by furnishing all the relevant records to establish that she is in legal occupation of the premises in question, within one week from the date of receipt of a copy of this order.

(ii) On approaching the first respondent with necessary application along with necessary documents, it is open to the first respondent to consider the claim of the petitioner on merits and in accordance with law within a period of four weeks thereafter.

(iii) The first respondent may also require the petitioner to execute necessary indemnity bond as per Clause 27 (4) of the Tamil Nadu Electricity Distribution Code.

9. The writ petition is ordered accordingly. No order as to costs. Consequently, connected miscellaneous petition is closed.

sd/-
Asst.Registrar

/True copy/

Sub.Asst.Registrar

sbi

To

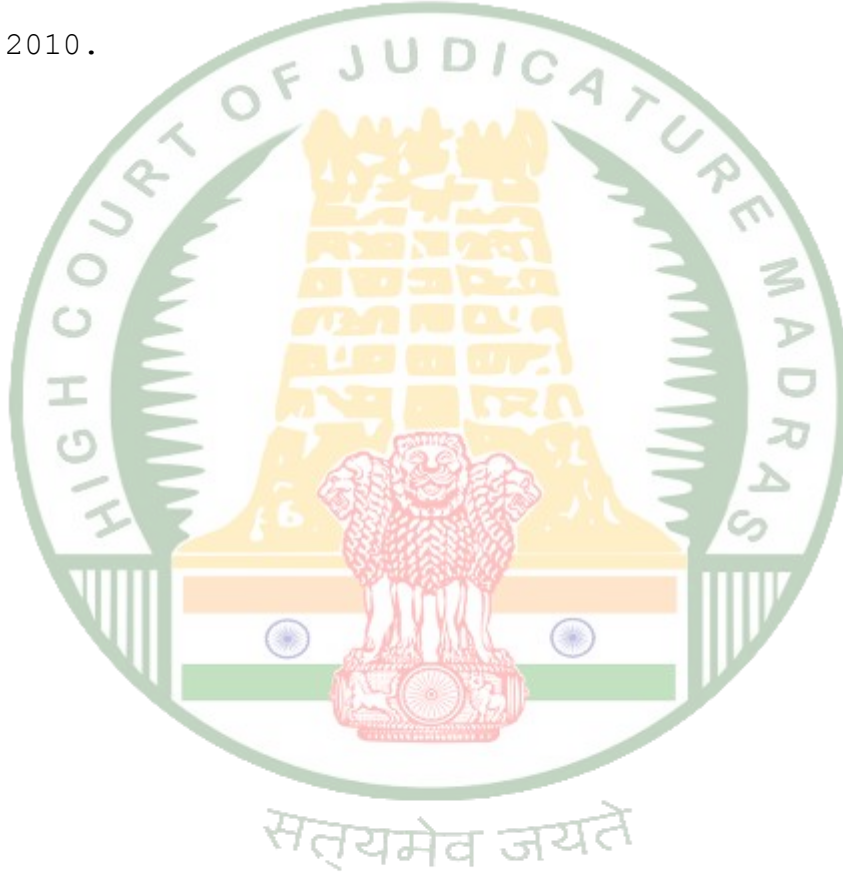
The Junior Engineer (O & M),
Tamil Nadu Electricity Board,
Arakkonam, Vellore District.

+ 1 c.c. to Mr. P. Srinivas, Advocate. S.R.No.61390.

+ 1 c.c. to Mr. S. Gowri Shankar, Advocate. S.R.No.60477.

W.P.No.16859 of 2010

JP (CO)
GSK 20.08.2010.



WEB COPY