

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2012

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THE HON'BLE JUSTICE MR.R.SUDHAKAR

Writ Petition No.15006 of 2012

R.Geetha Kumari

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Petitioner

Versus

1. Hindu Religious and Charitable Endowments, rep. by its Commissioner, Nungambakkam High Road, Chennai-600 034.
2. Arulmighu Kapaleeswarar Thirukkovil rep. by its Executive Officer, Mylapore, Chennai-4.
3. The Assistant Engineer, Tamil Nadu Electricity Board, Mandaveli, Chennai.

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Respondents

Prayer:- Writ petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus directing the third Respondent to provide to the petitioner a separate electricity service connection without reference to the First and Second Respondents for the premises bearing No.2A, Kumaragurunatha Mudali Street, Mylapore, Chennai 600 004.

For Petitioner : Mr.Manoj Sreevalsan

For Respondents : Mr.S.Kandasamy,
Spl.G.P. (HR& CE) for R1.
Mr.Varadharajan, for R2
Mr.G.Vasudevan, for R3.

O R D E R

Heard Mr.Manoj Sreevalsan, learned counsel for the petitioner and Mr.S.Kandasamy, learned Special Government Pleader (H.R& C.E.), appearing for the first Respondent, Mr.Varadharajan, learned counsel appearing for the second Respondent and

Mr.G.Vasudevan, learned counsel appearing for the third Respondent.

2. The residential premises bearing Door No.2A, Kumaragurunatha Mudali Street, Mylapore, belongs to the second Respondent Thirukkvoil, was allotted to the petitioner by the first Respondent, vide allotment order dated 28.02.2011. The petitioner has paid the advance security deposit amount of Rs.7740/-, as well as donation amount of Rs.12,900/- and the first month's rent on 4.3.2011 and also executed a lease deed. The petitioner entered occupation of the said premises and found that the electricity service connection was disconnected and the premises also required certain repairs to be carried out. The petitioner made several visits to the second respondent's office to get the electricity service connection as well as to carry out the repairs. She was informed that her request could be attended to only after the election to the Tamil Nadu Assembly gets over.

3. The petitioner therefore, started residing in the premises along with her family however without electricity supply. After the elections, the petitioner made several visits to the office of the second respondent for securing the electricity connection. Finally she was asked to give a request letters for repairs and for electricity connection. Even then, there was no response and in the meanwhile, the second respondent refused to collect the monthly rents from the petitioner. Therefore, the petitioner sent the rents for the months of April, May and June 2011 by Money Order on 29.07.2011 which was duly received by the second respondent; but the rents for the months of July and August 2011 sent by her through Money Order has been returned by the second Respondent.

4. The petitioner approached the third Respondent and sought for fresh electricity service connection and when the same was refused by the third respondent informing her that no electricity service connection will be provided for her unless she furnish a no objection certificate from the second respondent.

5. Thereafter, the petitioner made a representation to the second respondent dated 21.09.2011 and a representation to the first respondent dated 26.09.2011 requesting them to provide the petitioner with electricity service connection. The representation to the first respondent was received by the Commissioner on 27.09.2011, but the representation to the second respondent was returned with endorsement "Refused".

6. The second respondent issued a show cause notice dated 30.09.2011, called upon the petitioner to show cause as to why she

should not be evicted from the said premises by a proceedings against her under Section 78 (2) of the T.N. HR & CE Act, 1959.

7. The petitioner filed W.P.No.2749 of 2012 for a direction to the Assistant Engineer, Tamil Nadu Electricity Board, Mandaveli to provide her with a separate electricity service connection without reference to the first and second respondents for the premises under her occupation. When the said writ petition came up for hearing on 8.2.2012, the respondents submitted an order of cancellation dated 18.01.2012 issued by the first respondent cancelling the allotment of the petitioner. Therefore, the said writ petition was dismissed by this Court on 8.2.2012 with the following order:

"4. The learned Special Government Pleader appearing for the respondents 1 and 2 brought to my notice that the allotment made in favour of the petitioner itself was cancelled and hence there cannot be any direction to provide separate electricity connection to the petitioner for the premises bearing No.2A, Kumaragurunatha Mudali street, Mylapore, Chennai-600 004. The Special Government Pleader also handed over a copy of the cancellation order to the learned counsel appearing for the petitioner.

5. In view of the above stated position, I am of the considered view that the request of the petitioner cannot be acceded to and hence, the writ petition stands dismissed. However, it is open to the petitioner to challenge the cancellation of allotment made in her favour, in a manner known to law. No costs."

8. Thereafter, the petitioner filed W.P.No.3775 of 2012 challenging the order of cancellation of her allotment and this Court by order dated 17.02.2012, passed the following order:-

"Since, it is alleged in the affidavit in support of the writ petition, that the impugned order came to be passed without any notice to the petitioner, there shall be an order of interim injunction as prayed for".

Thereafter, the petitioner submitted a letter dated 23.02.2012 to the third respondent for a separate electricity connection without the consent of the owner of the premises. Thereafter, the third respondent obtained a legal opinion and then requested the petitioner to furnish an indemnity bond as required under Clause 27(4) of the Tamil Nadu Electricity Distribution Code and accordingly, the petitioner furnished the indemnity bond on 5.5.2012.

9. In the meanwhile, the petitioner received a notice dated 18.4.2012 issued by the Joint Commissioner, HR & CE, asking her to show cause as to why she should not be evicted. The petitioner gave a detailed reply stating the above facts. Thereafter, on 28.5.2012 the petitioner received a letter from the third respondent stating that her matter has been again referred for legal opinion as the owner has objected for giving her electricity connection. In such circumstances, the petitioner has come forward with the present writ petition for the said relief.

10. Considering the facts and circumstances of the case as above and the interim order passed consequent to cancellation of allotment, the petitioner was directed to file an affidavit that she will not seek any right on the basis of the privilege of having electricity service connection consequent to the order of this Court only with regard to electricity supply.

11. The affidavit filed by the petitioner dated 26.06.2012 as above is taken on file.

12. In view of the interim order and Clause 27(4) of the Tamil Nadu Electricity Distribution Code, the third Respondent is directed to effect domestic electricity service connection to the premises of the petitioner with an endorsement that it will be subject to the result of the W.P.No.3775 of 2012 and in terms of the affidavit of undertaking.

13. This writ petition is disposed of with the above terms. No costs.

Sd/-
Asst.Registrar.

/true copy/

Sub Asst.Registrar.

gr.

To

1. The Commissioner
Hindu Religious and Charitable
Endowments, Nungambakkam
High Road, Chennai-600 034.

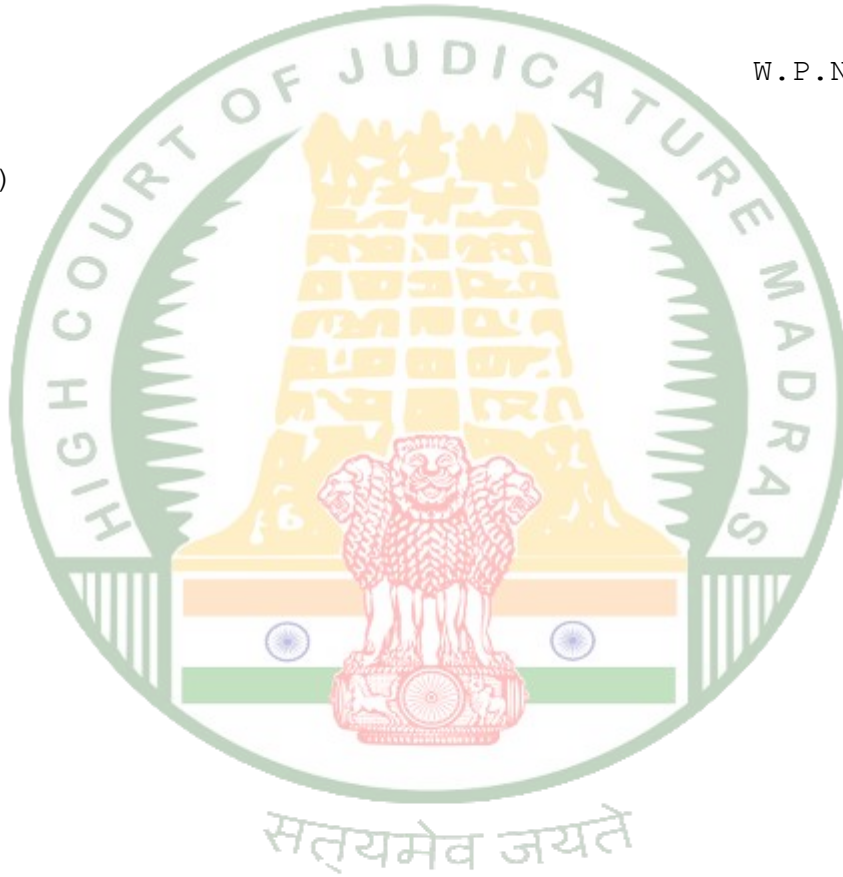
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2. The Executive Officer
Arulmighu Kapaleeswarar Thirukkivil
Mylapore, Chennai-4.
3. The Assistant Engineer,
Tamil Nadu Electricity Board,
Mandaveli, Chennai.

1 cc to Government Pleader, Sr. 37444
1 cc to Mr. Manoj, Advocate, sr. 37422

W.P.No.15006 of 2012

TEJ (CO)
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