

(2012) 12 MAD CK 0090

Madras High Court

Case No: Writ Petition No. 6621 of 2012

Sabareesan

APPELLANT

Vs

Superintending Engineer,
Operation and Maintenance

RESPONDENT

Date of Decision: Dec. 14, 2012

Citation: AIR 2013 Mad 111

Hon'ble Judges: V. Dhanapalan, J

Bench: Single Bench

Advocate: R. Rajarajan, for the Appellant; P. Gunaraj and Sirajudeen, for the Respondent

Final Decision: Disposed Off

Judgement

V. Dhanapalan, J.

The petitioner has filed the present writ petition seeking direction to the respondents 1 and 2 to give electricity connection to his land and the well situated in Survey, No. 119/18A admeasuring 0.76 cents at Puduvelur Village, Perambalur Taluk and District. It is the case of the petitioner that the property situated in Survey No. 119/18A to an extent of 0.76 cents including the well belongs" to his grandmother, Pachayammal, who had executed a registered sale deed dated 18-11-2005 bearing Document No. 4707/2005 on the file of the Sub-Registrars Office, Settikulam, in his favour and thus, he becomes the absolute owner of the said property and he is in possession and enjoyment of the same. It is also the case of the petitioner that the aforesaid property is an agricultural land and he is doing agricultural operation and he is depending on the income derived from it. According to the petitioner, there is a well situated in the said property and to carry out irrigation in an effective manner, he wanted to install 5 HP electric motor pump set to irrigate the agricultural land.

2. It is the further case of the petitioner that the predecessor in title of the aforesaid property has applied for electricity service connection to the first respondent as per application No. 302, dated 29-12-1999 and since the property including the well has been assigned in favour of the petitioner, as per the settlement deed referred to

above, the application given for service connection has also been transferred in his name, vide letter dated 14-12-2010, based on which, the petitioner claims that he is entitled for the electricity service connection.

3. It is also the case of the petitioner that while so, the third respondent herein has filed a Civil Suit in O.S. No. 566 of 2010 on the file of Principal District Munsif, Perambalur, seeking an injunction against respondents 1 and 2 from granting any electricity service connection to the petitioner's land and in the plaint, it is claimed that he has contributed Rs. 17,000/- to the grandmother of the petitioner for digging out a well. According to the petitioner, the third respondent himself has admitted the title and possession of the grandmother and also that of the petitioner, based on which, his claim has to be considered in the present scenario for giving electricity service connection.

4. According to the petitioner, respondents 1 and 2, after scrutinizing the document filed by the petitioner's predecessor in title including the suit filed by the third respondent, are of the opinion that electricity service connection can be given to the petitioner and accordingly, advice note has been sent to the petitioner. Apprehending that the third respondent may object for giving such electricity connection by respondents 1 and 2, the petitioner has approached this Court by filing the present writ petitioner and seeking the abovesaid direction.

5. Respondents 1 and 2 have filed their counter affidavit and inter alia stated that the writ petitioner had applied for an agricultural service connection with regard to the agricultural land comprised in Survey No. 119/18A at Puduvelur Village, Perambalur Taluk and District and the same had been registered on 29-12-1999 with Perambalur Electricity Board, vide registration No. 302, dated 29-12-1999. It is also stated in the counter affidavit that on inspection, it was found that there is a civil suit in O.S. No. 566 of 2010 on the file of the District Munsif Court, Perambalur, filed by the third respondent for the grant of permanent injunction restraining the Electricity Board from granting any service connection in the name of Mr. Sabareesan (the petitioner herein) alone without him and the said suit is pending for disposal. It is further stated in the counter affidavit that the present writ petition has been filed by the first defendant in the abovesaid suit, against the Electricity Board, in which, the plaintiff in the said suit had been added as third respondent and however, the authorities will abide by the direction that will be issued by this Court.

6. On the above background of pleadings, I have heard the learned counsel for the respective parties and perused the material documents made available to this Court.

7. It is not in dispute that the property including the well in question, to which, the petitioner sought for electricity service connection, is situated in Survey No. 119/18A admeasuring 0.76 cents at Puduvelur Village, Perambalur Taluk and District. It is claimed by the petitioner that there was a registered settlement deed, dated 18-11-2005, which has been registered as Document No. 4704/2005 on the file of the

Office of the Sub-Registrar, Settikulam, in his favour and thereby he is claiming that he is the owner of the said land.

8. It is also seen from the perusal of the records that the predecessor in title made an application to the Electricity Board in application No. 302, dated 29-12-1999 seeking electricity service connection to the abovesaid land and well and the same has been registered and thereafter, on an application from the petitioner, being the successor, the name of the original owner, viz. Pachayammal, has been replaced and the application has been transferred in the name of the petitioner, vide letter dated 14-12-2010.

9. It is also not in dispute that the third respondent filed a suit in O.S. No. 566 of 2010, wherein the petitioner, who is the first defendant in the suit, filed an interim application seeking permanent injunction restraining respondents 1 and 2 herein (defendants in the suit) from granting any electricity service connection to the petitioner for the abovesaid land and well. The said interim application was dismissed on the ground that the petitioner was called absent and there is no representation on behalf of him and though sufficient time has been duly given to argue the matter, he is not ready. Now it is informed that the suit is taken up for trial.

10. It is also seen from the perusal of the records that the application sent by the petitioner's predecessor in title for providing electricity service connection has been scrutinized by respondents 1 and 2 and an intimation has been sent to her during October, 2010 and later, based on the settlement deed executed in favour of the petitioner, though the application seeking electricity service connection has been transferred in his name, as per proceedings dated 14-12-2010, apprehending that the third respondent may do something to stall the proceedings giving electricity connection, the petitioner has come to this Court for a direction to provide him electricity service connection, based on the communication sent by the Electricity Board in October 2010, without making any demand to the respondents 1 and 2.

11. It is very important to note that the relief sought for in the civil suit is an injunction restraining the Electricity Board from granting electricity service connection to the defendant (writ petitioner), who filed an interim application, which was dismissed on 30-10-2012, not on the merits, but for non appearance of the petitioner and now, the suit has been taken up for trial. If so, in the absence of any restraintment, it is incumbent on the part of respondents 1 and 2 to look into the proceedings made in October 2011, viz., an intimation to the petitioner's predecessor in title but not to the petitioner. However, the name transfer has been effected in favour of the petitioner and thereafter, the petitioner, without knocking the doors of the respondents 1 and 2, has come before this Court with an apprehension that there may be a chance of stalling the action of the respondents to provide electricity connection by the third respondent, though there is no cause of action for the petitioner to come before this Court.

12. In the light of the above factual position, the prayer sought for by the petitioner cannot be granted when there is no demand made by the petitioner. However, taking into consideration that the application for agricultural service connection was ripe; that a preparatory notice has been sent by the Electricity Board in October 2011; that the interim application was dismissed by the District Munsif Court for non appearance and that in the absence of restraint by the Civil Court, it is incumbent on the part of the respondents 1 to 2 to take up the application for further process.

13. Therefore, in order to meet the ends of justice and looking into the hardship of the petitioner and the balance of convenience between the parties, and also taking into account the fact that providing electricity service connection to the agricultural operation is a matter of urgent need, which is very essential, and it is a national concern, the respondents 1 and 2 are directed to consider the application pending before them seeking electricity service connection to the petitioner's land, after giving notice to the parties concerned including the petitioner as well as the third respondent and decide the said application after giving an opportunity of hearing and in accordance with law. However, this order is subject to the result of the civil suit in O.S. No. 566 of 2010 pending before the competent civil Court. With the above direction, the writ petition is disposed of. However, there will be no order as to costs.