

(2013) 11 MAD CK 0224

Madras High Court

Case No: W.P. No. 27845 of 2013

A. Sunil Kothari

APPELLANT

Vs

The Chairman, Tamil Nadu
Generation and Distribution
Corp. Ltd. and Others

RESPONDENT

Date of Decision: Nov. 18, 2013

Citation: AIR 2014 Mad 12

Hon'ble Judges: S. Manikumar, J

Bench: Single Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S. Manikumar, J.

The petitioner is the owner of the property in Old Survey No. 84/4, New Survey No. 24/1, in the layout approved by the Thiruverkadu Municipality, situated at Noombal Village, Puliyambedu, Ambathur Taluk, Thiruvallur District, by virtue of a sale deed document No. 8046/2005, executed in his favour, registered in the office of the Sub-Registrar, Kundrathur. He had applied for planning permission, through his builder, to Thiruverkadu Municipality on 10.10.2011 to build residential apartments, consisting of stilt, plus two floors of six dwelling units. Thiruverkadu Municipality has also granted planning permission vide permit No. 360/2011, dated 22.10.2011. Thereafter, the petitioner has completed the construction work, as per the building approval and sought for electricity connection in the month of February, 2013, and that he has also paid necessary charges on 20.03.2013. According to the petitioner, there is no violation of any of the terms and conditions of the planning permission. It is the grievance of the petitioner that though an application for electricity service connection has been made in the month of February, 2013 and necessary charges were paid on 20.03.2013, the respondents 1 to 4, have not provided service connection and that the Assistant Executive Engineer, O & M, Tamil Nadu

Generation and Distribution Corporation Limited (TANGEDCO), Thiruverkadu, Chennai, is insisting upon production of the completion certificate/No Objection Certificate, from the planning authority, CMDA/fifth respondent herein. Inviting the clarificatory letter sent by the Member Secretary, CMDA, Chennai, to the Director, TANGEDCO, Chennai, in Letter No. EC 1/15998/Spl./2012, dated 18-3-2013, Mr. D.S. Rajasekaran, learned counsel for the petitioner, submitted that when the Member Secretary of the CMDA had already clarified in the above said letter stating that, No Objection Certificate is not required from CMDA for ordinary buildings, the respondents 1 to 4, who have collected meter caution deposit, CC Deposit, Development Charges and Estimate Charges, ought to have provided electricity supply to the above said premises of the petitioner.

2. He has also placed reliance upon the orders passed by this Court in W.P. No. 13881 of 2013, dated 16.05.2013, and W.P. No. 16498 of 2013, dated 19.06.2013, wherein, by taking note of the clarificatory letter dated 18.3.2013 of the CMDA, addressed to the TANGEDCO, this Court has directed the respondents 1 to 4 therein, to provide electricity service connection to the property of the petitioners therein, within a period of six weeks, from the date of receipt of a copy of the order.

3. Today, when the matter was taken up, Mr. G. Vasudevan, learned standing counsel for TNEB, has fairly admitted that the Member Secretary, CMDA, Chennai, vide letter dated 18.03.2013, sent to the Director, TANGEDCO, Chennai, has clarified that for the buildings approved, as an ordinary building by the Local Bodies, Completion Certificate need not be insisted for providing service connections, as of now, as the Local Bodies do not issue Completion Certificates for ordinary buildings issued by them. Relevant portion of the above said clarification is extracted hereunder:

(Vernacular matter omitted.....Ed.)

4. Supporting materials available on record in the writ petition disclose that Thiruverkadu Municipality has granted permission, vide permit No. 360/2011, dated 22.10.2011. The relevant portion of the said order is extracted hereunder:

PERMISSION is granted to the building construction in use of land according to the authorised copy of the plan attached hereto and subject to the condition overleaf.

5. The contention of the learned counsel for the petitioner that he had completed the construction work, as per the above planning permission, has not been disputed. It is also fortified by the admission of Mr. G. Vasudevan, learned standing counsel for TNEB, that there is no violation of the approved plan. The said submission of the learned standing counsel is placed on record.

6. Further, in W.P. Nos. 13881 of 2013 and 16498 of 2013, when a similar request for issuance of a writ of mandamus to direct the respondents therein to receive, process and consider the application of the petitioners therein and to provide

Electricity Service Connection to the building, was sought for, after considering the clarificatory letter dated 18.03.2013 of the Member Secretary, CMDA, Chennai, sent to the Director, TANGEDCO, Chennai, and also on the facts and circumstances of the case, this Court has directed the respondents therein, to provide electricity connection. Paragraph 6 of the order passed in W.P. No. 16498 of 2013, dated 19.06.2013, is extracted hereunder:

(Vernacular matter omitted.....Ed.)

7. Having regard to the submission of the learned standing counsel for TNEB that the clarificatory letter dated 18.03.2013 squarely applies to the case of the writ petitioner, and also of the fact that there is no violation of terms and conditions of the approved planning permission, this Court is of the view that, in the light of Section 43 of the Electricity Act and the provisions of the Tamil Nadu Electricity Distribution Code, 2004, it is incumbent on the part of respondents 1 to 4 to provide electricity connection to the premises of the petitioner, situated at Plot No. A2, comprised in Old Survey No. 84/4, New Survey No. 24/1, Noombal Puliyambedu Village, Ambathur Taluk, Thiruvallur district, without any delay. They have already received necessary charges as stated above. Therefore, the Assistant Executive Engineer, O & M, TANGEDCO, Thiruverkadu, Chennai/third respondent herein, and the Assistant Engineer, O & M, TANGEDCO, Puliyampattu, Chennai/fourth respondent herein, being the competent/field officers to provide electricity service connection, are directed to provide electricity service connection to the abovesaid premises of the petitioner, without insisting upon the completion certificate from the fifth respondent/CMDA, within a period of three weeks from the date of receipt of a copy of this order. In result, the writ petition is allowed in the above terms. No Costs.

Petition allowed.