

**A.Sunil Kothari Vs. Chairman of Tamil Nadu Generation and Distribution Corpn.**

**A.Sunil Kothari Vs. Chairman of Tamil Nadu Generation and Distribution Corpn.**

**SooperKanoon Citation :** [sooperkanoon.com/1168868](http://sooperkanoon.com/1168868)

**Court :** Chennai

**Decided On :** Nov-18-2013

**Judge :** S.Manikumar

**Appellant :** A.Sunil Kothari

**Respondent :** Chairman of Tamil Nadu Generation and Distribution Corpn.

**Judgement :**

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

18. 11.2013 CORAM THE HONOURABLE MR. JUSTICE S.MANIKUMAR  
W.P.No.27845 of 2013 A.Sunil Kothari ... Petitioner Vs. 1.The Chairman, Tamil Nadu Generation and Distribution Corporation Limited, No.800, Anna Salai, Chennai 600 002. 2.The Tamil Nadu Generation and Distribution Corporation Limited, Rep. by its Superintending Engineer, Chennai Electricity Distribution Circle/West, Thirumangalam, Chennai 600 040. 3.The Assistant Executive Engineer, O & M, Tamil Nadu Generation and Distribution Corporation Limited, Thiruverkadu, Chennai. 4.The Assistant Engineer, O & M, Tamil Nadu Generation and Distribution Corporation Limited, Puliampattu, Chennai. 5.The Chennai Metropolitan Development Authority, Rep. by its Member Secretary, No.1,Gandhi Irwin Road, Egmore, Chennai 600 008. ... Respondents PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of mandamus

to direct the respondents to provide electricity connection to the petitioner's flats situated at Plot No.A2, comprised in Old Survey No.84/4, New Survey No.24/1, Noombal Puliyaipedu Village, Ambathur Taluk, Thiruvallur district, without insisting completion certification from the fifth respondent / the Chennai Metropolitan Development Authority (CMDA), Chennai, and pass such further orders. For Petitioner : Mr.D.S.Rajasekaran for M/s.Achari and Antoni For R1 to R4 : Mr.G.Vasudevan, TNEB For R5 : Mr.M.Karthikeyan, CMDA

## ORDER

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, Puliyaipedu, 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.

2. Inviting the clarificatory letter sent by the Member Secretary, CMDA, Chennai, to the Director, TANGEDCO, Chennai, in Letter No.EC1/15998/Spl./2012, dated 18.03.2013, 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.

3. 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 18.03.2013 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 receipt of a copy of the order.

4. Today, when the matter was taken up, Mr.G.Vasudeval, 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: ".It is clarified that the Basement Floor + Stilt Floor not treated as floors for the purpose of calculating number of floors. Hence, two floors means Ground Floor+First Floor or Stilt parking Floor + two floors irrespective of provision of Basement floor. It is further clarified that in some cases, the applicant opt for part of the regular floor and part of stilt floor parking at the ground floor level. In such cases, the ordinary building with reference to number of floors consist of ground floor, (in Ground Floor level will be stilt for parking and part will be floor habitable use) first floor and second floor (part) over the area of stilt floor (part) at the ground floor level. Thus, the applicants are permitted to construct the second floor part only on the portion approved as stilt floor (part). As long as the building conforms to this profile, it is considered as an ordinary building. For easy reference, it is further suggested that the profile of the building should be seen whether any part of the building exceeds Ground Floor + First Floor or Stilt Floor + 2 Floors. Relating to industrial buildings, it is to be clarified that insistence

of completion Certificate for issue of Service connections was introduced based on the High Court order which stipulates that all the special buildings of residential and commercial and Multi storied building should be provided service connections only on obtaining completion certificate. This order does not cover industrial building. While incorporating this provisions as part of development regulations in the second Master Plan, the same is adopted. As per the Development Regulations (5), Completion Certificate required to be obtained Special Buildings, Group development and Multi-storied building, industrial buildings irrespective of height not exceeding 15.25 mtrs. or number of floors not exceeding GF+3 floors or stilt floor + 4 floors is not considered as Special Building. It is 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 Certificate for the ordinary buildings issued by them."

5. 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."

6. 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.

7. 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: ".6. In these circumstances, the writ petition is disposed of, directing the petitioner to submit an application to the fourth respondent seeking electricity service connection and the fourth respondent is directed to receive the same and consider and process the same, in the light of the circular dated 18.03.2013 of the fifth respondent and the order dated 26.04.2013 made in W.P.No.11420 of 2013 and pass final orders thereon and provide electricity service connection, if the circular and order applies to the premises of the petitioners. The fourth respondent is directed to complete the aforesaid exercise within a period of three weeks from the date of receipt of an application from the petitioner. No Costs."

8. 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 Puliampedu 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, Puliampattu, Chennai / fourth respondent herein, being the competent/field officers to provide electricity service connection, are directed to provide electricity service connection to the above said premise 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. Index:yes 13.11.2013 Internet:yes rkm To 1.The Chairman, Tamil Nadu Generation and Distribution Corporation Limited, No.800, Anna Salai, Chennai 600 002.

2. The Superintending Engineer, The Tamil Nadu Generation and Distribution Corporation Limited, Chennai Electricity Distribution Circle/West, Thirumangalam, Chennai 600 040. 3.The Assistant Executive Engineer, O & M, Tamil Nadu Generation and Distribution Corporation Limited, Thiruverkadu, Chennai. 4.The Assistant Engineer, O & M, Tamil Nadu Generation and Distribution Corporation Limited, Puliyampattu, Chennai. 5.The Member Secretary, The Chennai Metropolitan Development Authority, No.1,Gandhi Irwin Road, Egmore, Chennai 600 008. S.MANIKUMAR, J.

Rkm W.P.No.27845 of 2013 13.11.2013

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**