

**R.Manohar. Vs. the Assistant Engineer and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/928663](http://sooperkanoon.com/928663)

**Court :** Chennai

**Decided On :** Jul-02-2012

**Judge :** R.Sudhakar, J.

**Acts :** [Constitution of India](#) - Articles 226

**Appeal No. :** Writ Petition No.10535 of 2012 and M.P.No.1 of 2012

**Appellant :** R.Manohar.

**Respondent :** The Assistant Engineer and ors.

**Advocate for Def. :** Mr.P.Gunaraj, Adv.

**Advocate for Pet/Ap. :** Mr.M.Vijay Anand, Adv.

**Judgement :**

Writ Petition is filed under Article 226 of the [Constitution of India](#) praying to issue a Writ of Certiorarified Mandamus, calling for the entire records on the file of the first respondent pertaining to the impugned letter bearing 36/11 dated 18.07.2011 and quash the same and consequently direct the first respondent to provide the new Electricity Service Connection to petitioner's residential portion at plot bearing No.145, Philips Road, Neelankarai, Chennai-41 in Town Survey No.68/1A.

**ORDER**

1. This Writ Petition is filed praying to issue a Writ of Certiorarified Mandamus, calling for the entire records on the file of the first respondent pertaining to the impugned letter bearing 36/11 dated 18.07.2011 and quash the same and consequently, direct the first respondent to provide the new Electricity Service Connection to petitioner's residential portion at plot bearing No.145, Philips Road, Neelankarai, Chennai-41 in Town Survey No.68/1A.

2. Mr.P.Gunaraj, learned counsel appears on behalf of the first respondent and Mr.S.Parthasarathy, learned counsel appears on behalf of the respondents 2 and

3. By consent the writ petition is taken up for final disposal.

3. In respect of the above mentioned property for which electricity service connection is sought for by the petitioner, it is seriously objected to by the respondents 2 and 3 saying that they are the owners of the property and they are in occupation. A counter-affidavit and typedset of documents have been filed on 18.6.2012 by the respondents 2 and 3. Both parties agree that the second respondent has filed a suit O.S.No.3169 of 1997 before the Principal District Munsif Court, Alandur, for permanent injunction against the petitioner herein. The suit was dismissed on 18.6.2010 stating that the petitioner herein is also entitled to a portion of the property as co-owner. As against the judgment dated 18.6.2010, it is stated that appeal suit A.S.No.25 of 2011 has been filed before the Sub Court, Tambaram and there is no interim order produced.

4. It is also on record that on 11.5.2011, a joint patta has been issued in the name of the petitioner, respondents 2 and 3 and other co-sharers. The issuance of joint patta is challenged by the respondents 2 and 3 in Appeal No.1878 of 2011 before the Revenue Divisional Officer, Tambaram, and it is pending.

5. It is admitted by both parties that there is an old building in the above property. Respondents 2 and 3 state that they are in possession and occupation of the building and it is disputed by petitioner. Admittedly, there is no finding by the civil court as to who is in possession and occupation of the building. The civil court finding is that all of them are co-owners and the issue on possession is not clear.

6. In view of the above disputed factual matrix, this court is not inclined to go into the factual disputes and direct the first respondent to grant electricity connection in favour of one or other party. Petitioner, as well as the respondents 2 and 3 and other co-owners are entitled to work out their rights and remedy before competent civil court and the forum where proceedings are pending and thereafter seek electricity service connection. In a case of this nature, where the possession and occupation is disputed, this court is not inclined to grant any order.

7. In view of the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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