

K.K. Subramaniam Vs. the Executive Engineer (O and M), Tamil Nadu Electricity Board, Tangedco, Negamam

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Court : Chennai

Decided On : Nov-26-2012

Judge : V. Dhanapalan

Appeal No. : W.P.No.29189 of 2012

Appellant : K.K. Subramaniam

Respondent : The Executive Engineer (O and M), Tamil Nadu Electricity Board, Tangedco, Negamam

Advocate for Pet/Ap. : For the Petitioners: P. Sumalatha, C. Prakasam, Advocates. For the Respondent: S.K. Rameshwar, Advocate.

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the respondent in his proceedings No.EE/O & N/Nae.Ka./Ka.Mae/U/A.No.1384/12, dated 06.10.2012 and quash the same and consequently direct the respondent to shift over the electricity service connection in S.C.Nos.30 and 294 situated in the open wells in S.F.Nos.257/1A and 257/1C at Periya Negamam Village, Pollachi Taluk, Coimbatore District to the borewells situated in S.F.Nos.274/1C and 282/1 at Periya Negamam Village,

Pollachi Taluk, Coimbatore District.)

ORDER

1. Challenging the order passed by the respondent in his proceedings No.EE/O & N/Nae.Ka./Ka.Mae/U/A.No.1384/12, dated 06.10.2012, seeking to quash the same and for a consequential direction to the respondent to shift over the electricity service connection in S.C.Nos.30 and 294 situated in the open wells in S.F.Nos.257/1A and 257/1C at Periya Negamam Village, Pollachi Taluk, Coimbatore District to the borewells situated in S.F.Nos.274/1C and 282/1 at Periya Negamam Village, Pollachi Taluk, Coimbatore District, the petitioner has filed this Writ Petition.

2. According to the petitioner, he is owning agricultural lands situated in S.F.Nos.257/1A, 257/1C, 274/1C and 282/1. The lands in S.F.Nos.274/1C and 282/1 exclusively belong to the petitioner and insofar as the lands in S.F.Nos.257/1A and 257/1C are concerned, the petitioner is the joint owner with his daughter and daughter-in-law. The said lands in S.F.Nos.257/1A and 257/1C were purchased by the petitioner, his daughter and his daughter-in-law with two open wells along with two separate agricultural free service connection in S.C.Nos.30 and 294. When they were doing agricultural activities in the said lands, due to monsoon failure, the nearby land owners dug bore wells and hence, both open wells in the said lands of the petitioner went dry and hence, the petitioner decided to dig borewell in his other lands in S.F.Nos.274/1C and 282/1. After obtaining No Objection letters from his daughter and daughter-in-law, the petitioner changed the service connections in S.C.Nos.30 and 294 to his name and both the service connections stand in his name till date.

2a. As he could not take water from the above said two open wells, the petitioner made an application before the respondent for shifting the above said service connections to the bore wells dug in S.F.Nos.274/1C and 282/1 from the existing open well service connections. It is the case of the petitioner that without looking into the entire fact, the respondent rejected his request and passed the impugned order on the ground that the said open wells are closed and there is no whisper to carry out cultivation. Therefore, left with no other alternative, the petitioner has

approached this court with the above Writ Petition.

3. Learned counsel appearing for the respondent produced Written Instructions from the Assistant Electrical Engineer/South, TANGEDCO, Negamam, wherein, it is stated that Mr.K.K.Subramaniam, S/o.(Late) K.V.Kandasamy Gounder, Kaliyappampalayam, Periya Negamam has represented for shifting of his agricultural services in S.C.No.294, Rangampudur and S.C.No.30, Rangampudur vide Letter dated 20.09.2012; His service connection vide S.C.No.294 was situated in land in S.F.No.257/1C and S.C.No.30 situated in S.F.No.257/1A; As per his representation, the petitioner requested shifting of S.C.No.30 (S.F.No.257/1A) to the land in S.F.No.282/1, Periya Negamam Village and S.C.No.294 (S.F.No.257/1C) to the land in S.F.No.274/1C Periya Negamam Village and on inspection of the above service connection premises, it was noticed that the Agricultural Wells for which services effected were closed fully and agricultural activities in the lands ceased to exist.

4. As per the TANGEDCO Instructions issued by the Chief Engineer/Planning & Resource Centre, Chennai vide Letter No.SE/RE&I;(D)/EE/RE/A1/F.DOC/D.1519, dated 01.12.2011, shifting of existing agriculture service connection may be permitted only if the existing and proposed location of the land and well/bore well are having agriculture operations; shifting of agriculture service connection may be considered in case of dryness, insufficient water and due to water pollution in the existing well/bore well; Necessary certificate from the concerned authorities should be obtained for the reasons stated by the applicant; Shifting of existing agriculture service connection should be done under DCW basis and the above instructions are applicable for all categories of existing agriculture service connections such as Normal, RSFS Schemes, etc. and it is also applicable for change of location of the well/bore well requested at the application stage itself.

5. On the background pleadings, I have heard the learned counsel for the parties.

6. Ms.P.Sumalatha, learned counsel for the petitioner would contend that the respondent has failed to consider the fact that the petitioner dug borewell for cultivation of agricultural crops in his lands in S.F.Nos.257/1A and 257/1C, only when the open wells in his lands in S.F.Nos.274/1C and 282/1 went dry due to

drought and that the adjacent land owners dug bore wells at a depth of 700 to 1000 feet. Hence, the order of the respondent rejecting the petitioner's request for shifting the service connection is illegal and arbitrary.

7. On the other hand, Mr.S.K.Rameshwar, learned counsel appearing for the respondent Electricity Board would contend that shifting of existing agriculture service connection may be permitted only if the existing and proposed location of the land and well/bore well are having agricultural operations and the shifting of agriculture service connection may be considered in case of dryness, insufficient water and due to water pollution in the existing well/bore well. Therefore, the closed well/bore well cannot be taken for shifting of service connection.

8. An analysis of the case would reveal that the petitioner is the exclusive owner of the lands in S.F.Nos.274/1C and 282/1 and a joint-owner of the lands in S.F.Nos.257/1A and 257/1C with his daughter and his daughter-in-law. The petitioner claims that there are two open borewells in S.F.Nos.257/1A and 257/1C along with two separate agricultural free service connection in S.C.Nos.30 and 294, respectively. Due to failure of monsoon, the nearby land owners dug bore wells and hence, both open wells in the said lands of the petitioner went dry and hence, the petitioner decided to dig bore well in his other lands in S.F.Nos.274/1C and 282/1. As he could not take water from the above said two open wells, the petitioner made an application before the respondent on 20.09.2012 for shifting the above said service connections to the bore wells dug in S.F.Nos.274/1C and 282/1 from the existing open well service connections. On inspection of the above service connection premises, it was noticed that the Agricultural wells for which the services effected were closed fully and agricultural activities in the land ceased to exist. Therefore, the petitioner's claim was rejected by the respondent vide his proceedings dated 06.10.2012.

9. From a perusal of the instructions cited in the TANGEDCO proceedings dated 01.12.2011, it is seen that shifting of existing agricultural service connection may be permitted only if the existing and proposed location of the land and well/borewell are having agriculture operations and also shifting of agriculture service connection may be considered in case of dryness, insufficient water and

water pollution in the existing well/bore well.

10. In the instant case, the petitioner has sought shifting of service connection in S.C.No.30 in S.F.No.257/1A and S.C.No.294 in S.F.No.257/1C to S.F.No.282/1 and S.F.No.274/1C, respectively. On inspection of the said service connection premises by the authorities concerned, it was noticed that the Agricultural Wells were closed fully and agricultural activities ceased to exist. Therefore, the respondent has taken a decision to reject the petitioner's request for shifting of agricultural service connection in the light of the instructions cited in the TANGEDCO proceedings, dated 01.12.2011. Hence, the decision taken by the respondent rejecting the request of the petitioner vide his proceedings dated 06.10.2012, in the considered opinion of this court, does not warrant any interference.

In view of the above, the Writ Petition deserves no merit consideration and is accordingly dismissed. No costs. Consequently, connected M.P.No.1 of 2012 is closed.

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