

(2012) 12 MAD CK 0134

In the Madras High Court

Case No : Writ Petition (MD) No's. 3669 and 3726 of 2006 and W.P.M.P. (MD) No's. 3928 and 3952 of 2006

T. Venkatachalapathy and Another

APPELLANT

Vs

Superintending Engineer and Others

RESPONDENT

Date of Decision : 17-12-2012

Acts Referred:

Citation : (2013) 3 MLJ 80

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : N. Dilip Kumar, for the Appellant; G. Kasinathadurai and P. Athimoola Pandian, for the Respondent

Final Decision : Dismissed

Judgement

K. Ravichandrababu, J.—In both these writ petitions, the prayer sought for is for a direction to the Respondents 1 to 3 to restore the electricity supply to the respective service connections. The case of the petitioner, in both the writ petitions, is that they purchased their respective properties from their predecessor in title and thereafter, put up their respective construction and also obtained electricity service connection. The said electricity connection was subsequently disconnected based on a civil Court decree obtained by the 4th respondent against the Respondents 1 to 3, whereby the Respondents 1 to 3 were prevented from effecting service connection to the premises. In the said suit, the petitioners were not parties. However, the petitioners' vendor, namely Mani Janagarajan filed O.S. No. 366 of 1993 against the 4th respondent herein seeking for a declaration of his title to the suit property and though, the said suit was decreed by the trial Court and was confirmed in A.S. No. 176 of 1996, by the Additional Subordinate Court, Srivilliputhur on 25.9.1996, in further Second Appeal filed in S.A. No. 739 of 1999 on the file of this Court, the said suit filed by the petitioner's vendor came to be dismissed. Moreover, the petitioner in W.P. (MD) No. 3669 of 2006 has also filed separate suit in O.S. No. 32 of 2000 and 55

of 2002 on the District Munsif Court, Sivakasi, seeking for permanent injunction. The trial Court dismissed the suits. Against which, A.S. Nos. 11 of 2008 and 12 of 2008 came to be filed before the Subordinate Court, Sivakasi. The 4th respondent also filed O.S. No. 55 of 2002 on the file of the District Munsif Court, Sivakasi, seeking for recovery of possession and when the said suit was decree, further appeal in A.S. No. 2 of 2009 was filed by one of the writ petitioners and in all the three appeals, the first appellate Court rejected the claim of the petitioners herein and consequently, all the three appeals were dismissed, by its decree and judgment, dated 13.4.2009.

2. It is now stated that the said decree and judgment passed by the lower appellate Court has not been further appealed and therefore, the same has become final and conclusive. Therefore, considering the nature of civil decrees passed between the parties to the present proceedings, it could be seen that the 4th respondent is armed with decree against the Respondents 1 to 3 not to effect the service connection, whereas the petitioners have lost their battle seeking for injunction, which was confirmed by the appellate Court. Likewise, their predecessors in title also lost their battle in the civil suit, which had culminated upto the filing of S.A. No. 39 of 1989 and this Court rejected their claim for declaration of the title. That being the factual position, the petitioner cannot maintain the present writ petitions seeking for the relief of restoration of their service connections.

3. Though, the learned counsel appearing for the petitioner submitted and contested the matter by saying that when they are in possession of the property and as an occupant of the same is entitled for service connection, I am not able to accept the said contention, in view of the fact that both the petitioners and their predecessors in title have lost their battle before the competent civil Court, in establishing the right in respect of the service connection sought to be restored. Therefore, they cannot be treated as in lawful possession of the property. When that being the position, the learned counsel for the petitioner is not justified in contending that the petitioners are entitled to restoration. Considering all the facts and circumstances, and also by considering various decrees passed by the competent civil Court, I reject the pleas sought for in these writ petitions and accordingly, these writ petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.