

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON: 13-11-2025**

**PRONOUNCED ON: 24.03.2026**

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**CORAM**

**THE HON'BLE DR.JUSTICE A.D.MARIA CLETE**

**SA No. 363 of 2014**

**and**

**M.P.No.1 of 2014**

Marudha Gounder  
S/o Rasi Gounder  
Manuvakadu  
Poosaripalayam Village,  
Paramathivelur Tk,  
Namakkal Dist.

.. 5<sup>th</sup>  
Defendant/Appellant  
/Appellant

**Vs**

1. K.Ramasamy  
W/o V. Kaliannan  
108 Periyappti Rd,  
S.P.Pudhur, Namakkal Town.
2. R.Rajeswari  
W/o Ramasamy,  
108, Periyappti Rd,  
S.P.Pudhur, Namakkal Town.
3. Chairman  
TNEB,  
No. 800 Anna Salai,  
Chennai.
4. Divisional Engineer  
TNEB, Bypass Rd,  
Velur, Namakkal Dist.
5. Additional Executive Engineer,  
TNEB, Velur, Namakkal Dist.



6. Junior Engineer

TNEB, Pandamangalam Paramathi,  
Velur Tk, Namakkal Dist.

..Defendants  
1-4/Respondents 3  
-6/Respondents

**PRAYER:** The Second Appeal filed under Section 100 of Code of Civil Procedure against the judgment and decree in A.s.No.34 of 2009 on the file of the Subordinate Court, Namakkal dated 28.11.2012 confirming the judgment and decree in O.S.No.80 of 2007 on the file of the District Munsif cum Judicial Magistrate, Paramathi dated 13.03.2009.

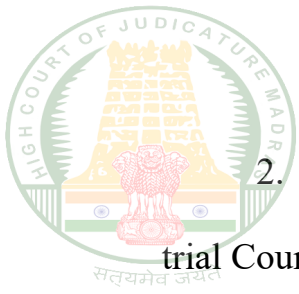
For Appellant(s): MR.C. Jagadish

For Respondent(s): Mr.K.J.Nithianandan  
for R1 & R2.

Mr.Hemalatha Gajapathy  
For R3 to R6

### **JUDGMENT**

This Second Appeal is directed against the judgment and decree dated 28.11.2012 made in A.S. No. 34 of 2009 on the file of the learned Subordinate Judge, Namakkal, confirming the judgment and decree dated 13.03.2009 made in O.S. No. 80 of 2007 on the file of the learned District Munsif-cum-Judicial Magistrate, Paramathi. The appellant herein was the 5th defendant in the suit. Respondents 1 and 2 were the plaintiffs. Respondents 3 to 6 were the officials of the Tamil Nadu Electricity Board.

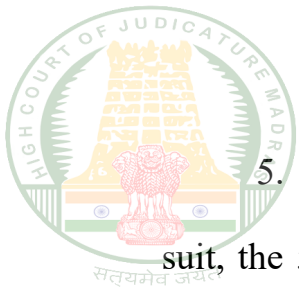


2. For convenience, the parties are referred to as they were before the trial Court.

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3. The suit was filed by the plaintiffs seeking two reliefs. The first relief was a direction to the Electricity Board authorities to include the names of the plaintiffs as co-sharer service holders in Service Connection No. 197, along with the electric motor and pump set attached to the common well. The second relief was a permanent injunction restraining the 5th defendant from interfering with the plaintiffs' use and enjoyment of the changeover switch installed in the same service connection. The suit property is the common electricity service connection, electric motor and pump set installed in the common well in S.F. No. 26/4-B, Agrahara Venkarai Village, Velur Taluk, Namakkal District.

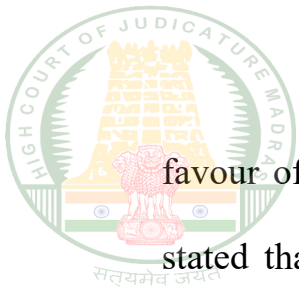
4. The case of the plaintiffs was that they had a one-third right in the common well and in the connected electricity service arrangement. According to them, this right had already been declared by the competent civil Court in O.S. No. 139 of 2003 by decree dated 26.04.2004. In the said earlier suit, the Court declared their one-third right in S.C. No. 197, electric motor pump set and related irrigation right, and further restrained the defendants therein from obstructing the plaintiffs from using the service connection and motor pump set to irrigate their share of the land by drawing water from the common well.



5. The further case of the plaintiffs was that, about two years before the suit, the 5th defendant dug a bore well in his land and installed a compressor.

Since the existing switch for the electric motor could not be used for the compressor also, the Electricity Board installed a changeover switch. After installation of the compressor, the 5th defendant was able to draw more water, the common well began to dry up, and the plaintiffs were unable to irrigate their land properly. Therefore, in the last week of October 2006, the plaintiffs also dug a bore well in their land and installed a compressor. When they attempted to use the changeover switch, the 5th defendant obstructed them. Thereafter, the plaintiffs requested the Electricity Board to install another changeover switch, but the Board refused on the ground that there was no provision to install more than one changeover switch for one service connection. The Board also stated that the service connection stood only in the name of the 5th defendant and advised the plaintiffs to apply for inclusion of their names. The plaintiffs accordingly applied on 07.02.2007, and by letter dated 26.02.2007, they were directed to obtain the consent of the 5th defendant. Since the 5th defendant refused consent, the suit came to be filed.

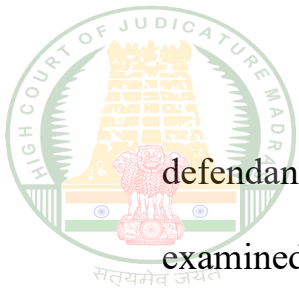
6. The Electricity Board resisted the suit by contending that, according to their records, Service Connection No. 197 stood only in the name of the 5th defendant. They further stated that the Board permits only one changeover switch for a single connection, and a changeover switch can be given only in



favour of the person in whose name the service connection stands. They also stated that the name in the service connection can be changed only with the consent of the existing holder, and only one agreement can exist for one connection. Therefore, according to the Board, the plaintiffs could not insist on either a second changeover switch or addition of their names without the consent of the 5th defendant.

7. The 5th defendant filed a written statement and additional written statement. His stand was that, though the plaintiffs may have a one-third right in the common well under the earlier decree, they had no right in the changeover switch. He contended that the plaintiffs themselves had pleaded that they requested the Board to install another changeover switch, and therefore they could not at the same time claim a right over the existing switch. He further contended that there could not be two changeover switches for one service connection and that the service connection was given to him in his individual capacity.

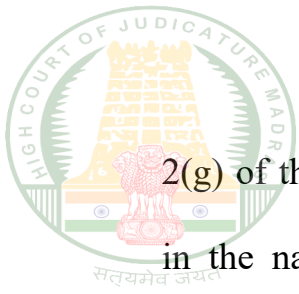
8. On the above pleadings, the trial Court framed issues as to whether the plaintiffs were entitled to a mandatory injunction directing defendants 1 to 4 to add their names in S.C. No. 197, whether they were entitled to a permanent injunction against the 5th defendant in respect of the changeover switch, and to what other relief they were entitled. On the side of the plaintiffs, the 1st plaintiff examined himself as PW1, and Exs.A1 to A5 were marked. On the side of the



defendants, one Hariharan was examined as DW1 and the 5th defendant was examined as DW2. No documents were marked on the defendants' side. The trial Court decreed the suit.

9. Aggrieved by the decree of the trial Court, the 5th defendant preferred A.S. No. 34 of 2009 before the Subordinate Judge, Namakkal. The first appellate Court re-appreciated the entire evidence. It noticed that the plaintiffs had already been declared to have one-third right in the common well and in S.C. No. 197. The appellate Court also took note of the evidence of DW1, the Board official, that for a single connection two changeover switches cannot be given. From this, it concluded that the plaintiffs were therefore entitled to use the existing changeover switch to the extent of their one-third share. The appellate Court further relied upon Ex.A2 and Ex.A3 to show that the plaintiffs had approached the Board to include their names and that their request was returned only for want of the 5th defendant's signature. It also relied on Ex.A4 and Ex.A5 to hold that the parties had rights in common and that the changeover switch formed part of the common service connection. On that reasoning, the appellate Court dismissed the appeal and confirmed the decree of the trial Court .

10. Challenging the concurrent findings of the Courts below, the 5th defendant filed the present Second Appeal. In the memorandum of grounds, the appellant mainly contended that the plaintiffs are not "consumer" under Section

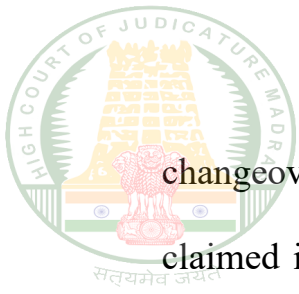


2(g) of the Tamil Nadu Electricity Supply Code, that S.C. No. 197 stands only in the name of the 5th defendant, that there is no provision to include the plaintiffs as co-sharer service holders, that only the 5th defendant had applied for service under Clause 27(2), that there cannot be two changeover switches for one service connection, and that the Courts below erred in granting relief contrary to the Electricity Code and Regulations.

11. This Court admitted the Second Appeal on 08.04.2014 on the following substantial questions of law:

- 1) Whether the Courts below are right in granting a decree for mandatory injunction ignoring the provisions of the Tamil Nadu Electricity Supply Code particularly when the plaintiffs are not the consumer as defined under Section 2(g) and not the applicant under Clause 27(2) of the Tamil Nadu Electricity Board?
- 2) Whether the Courts below are right in law in granting a decree for permanent injunction particularly when the fifth defendant is the consumer as defined under Section 2(g) of Tamil Nadu Electricity Supply Code and admittedly when the service connection bearing SC No. 197 stands in the name of the fifth defendant?

12. Learned counsel for the appellant/5th defendant submitted that Service Connection No. 197 stands solely in the name of the 5th defendant and that, though the plaintiffs pleaded that they had reserved liberty to initiate contempt proceedings and had sought installation of a separate changeover switch from defendants 3 and 4, which was refused on the ground that only one



changeover switch can be provided for a single service connection, the relief claimed in the suit is only for inclusion of their names in the common service connection, thereby revealing an inconsistency between the pleadings and the prayer. He further contended, relying on the written statement of defendants 1 to 4, that the question whether a second changeover switch can be granted is a matter for the Electricity Board, and that under the rules only one changeover switch can be provided, and that too only in the name of the recorded consumer. He also submitted that the existing changeover switch is situated in the land of the 5th defendant, is being used by him, and is not feasibly capable of being used by the plaintiffs; therefore, if the plaintiffs require supply, they must obtain a separate service connection, and that the plaintiff has not obtain any mandatory injunction for use of the existing changeover switch.

13. Per contra, learned counsel for the plaintiffs/respondents 1 and 2 submitted that, the plaintiffs having established their right in Service Connection No. 197, they were consequently entitled to inclusion of their names in the said service connection. He further submitted that, pursuant to the trial Court decree, the plaintiffs' names have already been included in Service Connection No. 197 and that the surviving dispute is only with respect to use of the changeover switch. According to him, although a separate connection may be open to be pursued, the process is time-consuming and, until such connection is secured, a workable arrangement should be made to enable the plaintiffs to



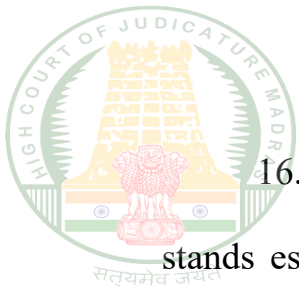
use the existing changeover switch, for which they are willing to bear one-third of the expenses.

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14. Learned counsel appearing for the Electricity Board/respondents 3 to 6 submitted that two changeover switches cannot be provided for same service connection, and that it is for parties to make their own internal arrangement for use of the existing changeover switch. He also referred to the press release dated 10.09.2020 of the Tamil Nadu Electricity Regulatory Commission only to point out the present administrative position that separate agricultural service connections may be permissible to co-owners, subject to the prescribed conditions.

### **Substantial Questions of Law 1 and 2:**

15. It is not in dispute that Service Connection No.197 stands in the name of the 5th defendant in the records of defendants 1 and 4. However, it is an admitted position that the said service connection is not the exclusive property of the 5th defendant, but is jointly owned by the plaintiffs and the 5th defendant. The 5th defendant himself has acknowledged the plaintiffs' one-third right. Significantly, such right has already been recognised in O.S. No.139 of 2003, wherein the plaintiffs' entitlement over the common well, electric motor pump set, and irrigation rights has attained finality.



16. Once the plaintiffs' co-ownership in Service Connection No.197 stands established, such right necessarily extends to all integral and ancillary apparatus attached thereto. The changeover switch, being an inseparable component for effective utilisation of the service connection, cannot be treated as an independent or exclusive asset of the 5th defendant. The attempt of the 5th defendant to bifurcate the service connection from its operational apparatus is legally unsustainable.

17. The contention of defendants 1 to 4 that the plaintiffs are not "consumers" within the meaning of Section 2(g) of the Tamil Nadu Electricity Supply Code is misconceived. The present lis is not one for conferment of a fresh right under the Code, but for enforcement of a pre-existing civil right already adjudicated by a competent Court. Therefore, the absence of the plaintiffs' names in the Electricity Board records is not determinative of their entitlement.

18. The expression "consumer" under Section 2(g) of the Tamil Nadu Electricity Supply Code and Section 2(15) of the Electricity Act, 2003 must receive a purposive and contextual interpretation. It cannot be construed in a narrow manner so as to enable one co-sharer, merely because his name alone appears in the official records, to exclude other co-sharers from enjoying a common facility. Further, by virtue of Section 13 of the General Clauses Act, words in the singular shall include the plural. Thus, the statutory definition



cannot be invoked to defeat rights already crystallised by a judicial decree.

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19. The plea of the 5th defendant that he alone had applied for change over switch and was the only applicant under Clause 27(2) of the Tamil Nadu Electricity Distribution Code, 2004 is equally untenable. Even assuming that the application stood in his name, it must, in law, be treated as one made for the benefit of all co-sharers entitled to the service connection. Conversely, the unilateral act of the 5th defendant in obtaining and installing the changeover switch without notice to the plaintiffs evidences an attempt to appropriate a common facility to his exclusive use. Administrative provisions governing grant of service connection cannot override or dilute adjudicated civil rights.

20. The further contention that the changeover switch is located within the premises of the 5th defendant and, is therefore, inaccessible to the plaintiffs, cannot be accepted. The 5th defendant, having unilaterally installed the apparatus within his premises, cannot take advantage of his own wrong to defeat the plaintiffs' rights. When co-ownership is established, each co-sharer is entitled to reasonable enjoyment of the common property and its appurtenances. Consequently, the plaintiffs are entitled to such access as is reasonably necessary to exercise their rights in Service Connection No.197. Any other interpretation would render the earlier declaratory decree illusory and incapable of enforcement.



21. In view of the above, the relief granted by the Courts below, namely , directing inclusion of the plaintiffs' names in the Electricity Board records pertaining to Service Connection No.197 and granting consequential injunction, constitutes a logical and lawful enforcement of already adjudicated rights. No perversity or legal infirmity is made out warranting interference in Second Appeal. Thus, Substantial Questions of Law 1 and 2 are answered against the 5<sup>th</sup> defendant/appellant.

22. In the result, the Second Appeal stands dismissed with cost, and the judgment and decree dated 28.11.2012 made in A.S. No.34 of 2009 on the file of the Subordinate Judge, Namakkal, confirming the judgment and decree dated 13.03.2009 made in O.S. No.80 of 2007 on the file of the District Munsif-cum-Judicial Magistrate, Paramathi, are hereby confirmed. Consequently, connected miscellaneous petition , if any , is closed.

**24.03.2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

sms

To

1.The Subordinate Court,  
Namakkal.

2.The District Munsif cum Judicial Magistrate,  
Paramathi.



3.DivisionalEngineer  
TNEB, Bypass Rd,  
Velur,NamakkaDist.

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4.Additional Executive Engineer,  
TNEB, Velur, Namakka Dist.

5. Junior Engineer  
TNEB, Pandamangalam Paramathi,  
Velur Tk, Namakka Dist.

6..V.R.Section,  
High Court, Madras.



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SA No. 363 of 2



**DR.A.D.MARIA CLETE, J.**

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**Pre-delivery judgment made**  
**in**  
**SA No. 363 of 2014**

**24.03.2026**