



W.A(MD)No.544 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

**W.A(MD)No.544 of 2013
and
M.P(MD)No.1 of 2013**

R.Gnanabaranam

.. Appellant

Vs.

1.Ramkumar

2.The Assistant Engineer,
O&M/TNEB/Nagaram,
Kulasekaram,
Kanyakumari District.

.. Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
against the order, dated 19.04.2013, made in W.P(MD)No.14292 of
2011.

For Appellant : Mr.K.N.Thampi

For Respondents : Mr.K.Seemaraj
for R1



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Mr.S.Deenadhayalan
Standing Counsel
for R2

JUDGMENT

[Order of the Court was made by R.SURESH KUMAR, J.]

This writ appeal has been filed against the order passed by the learned Judge in W.P(MD)No.14292 of 2011 by order dated 19.04.2013.

2. The first respondent in this appeal filed the said writ petition seeking a mandamus directing the respondent, who was Assistant Engineer [O&M] at Tamilnadu Electricity Board, Nagaram, Kulasaekaram, Kanyakumari District to re-shift the electric post to the original places on the western side of the road situated at Resurvey No. 119/A, Thumbacode Village, Kalkulam Taluk, Kanyakumari District.

3. During the pendency of the writ petition, the present appellant as a third party had filed M.P(MD)No.3 of 2012 to get impleaded. However, he was not impleaded but shown as a petitioner in M.P(MD)No.3 of 2012 in the order dated 19.04.2013 whereby, the



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learned Judge given a direction directing the respondent TANGEDCO to find out the place on which the electric pole in question is situate with the assistance of the revenue officials and if it in Survey No.199/9A, the respondent should consider the representation made by the writ petitioner, further, the respondent should also consider the order of injunction passed in original suit in O.S.No.184 of 2011, that was filed by the present appellant.

4. Aggrieved over the said order passed by the learned Judge, the petitioner in M.P(MD)No.3 of 2012 preferred this appeal.

5. Heard the learned counsel respectively appearing for the parties.

6. During the last hearing we wanted the TANGEDCO through his Standing counsel to get instruction as to exactly in which survey number the disputed electric pole is erected and if it is still in existence, what is the proposal of the TANGEDCO to shift it in which survey number.



7. In response to the said order passed by this Court during last hearing, Mr.S.Deenadhayalan, learned Standing counsel appearing for the second respondent has produced a written instruction that has been given by way of communication by the Tahsildar, Kalkulam to the TANGEDCO where he has stated the following:

“பார்வையில் வட்டசார் ஆய்வாளர் அறிக்கையின்படி தும்பகோடு கிராமம் புல எண் 119ல் வழக்கு நடைபெறுவதால் புல எண் 119/6 புறம்போக்கு ரோடு செல்வதாகவும் மேற்படி ரோடு ரீசர்வேபடி 2.0மீ அகலம் உள்ளதாகவும் தற்போது பூமியில் 4.8மீட்டர் வீதியில் ரோடு செல்வதாகவும் கூறியுள்ளார். 119/6ல் செல்லும் தென்வடல் ரோட்டின் கிழக்கு பக்கம் மின்கம்பங்கள் நடப்பட்டுள்ளதாகவும் மின்கம்பங்கள் நடப்பட்டுள்ள இடம் 119/9A7D ல் வருவதாகும். மேற்படி புல எண் 119/9A7D பட்டா நிலம் என்றும் தனது அறிக்கையில் சார் ஆய்வாளர் (நில அளவர்) கூறியுள்ளார் என்ற விபரத்தினை தெரிவிக்கப்படுகிறது.

ஓம்/
வட்டாட்சியர்
கல்குளம்.”

8. Relying upon this communication of the Tahsildar concerned, the learned Standing counsel for TANGEDCO would submit that insofar as the two poles, which are existing now, are located in Survey No. 119/9A7D, which belongs to the first respondent.



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9. If at all the pole has to be shifted on the other side of the road concerned, it would be shifted to Survey No.196 which belongs to the local body as a public road and therefore, there was no proposal on the part of the TANGEDCO to shift the pole from the existing area to the land belongs to the appellant, ie., Survey No.119/4A.

10. The said stand taken by the TANGEDCO is taken on record. In this context, Mr.K.N.Thambi, learned counsel appearing for the appellant would submit that insofar as the property belongs to the appellant in Survey No.119/4A is concerned, the TANGEDCO should not be permitted to shift their poles and erect in that land or even if they erect the poles on the other side of the road, which, according to the TANGEDCO is in Survey No.196 between two poles, if the TANGEDCO wants to draw the line, the line also should not take across the land or property belongs to the appellant at Survey No.119/4A.

11. This apprehension expressed by the learned counsel appearing for the appellant also has been met out by the learned Standing counsel



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appearing for the TANGEDCO, who would submit that in turn, the poles would not be erected in Survey No.119/4A and the electrical line would not be drawn between two poles to be erected or shifted across the property belongs to the appellant situated at Survey No.119/4A.

12. In view of the said stand taken by the TANGEDCO, the plea raised by the appellant in this appeal since has been redressed or the prayer has been accomplished by recording the aforestated stand of the TANGEDCO as well as the first respondent, this Court feel that this writ appeal can be disposed of by giving a quietus, accordingly, it is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.K.,J.] & [K.K.R.K.,J.]
29.03.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes/No
PJJ

To
The Assistant Engineer,
O&M/TNEB/Nagaram,
Kulasekaram,
Kanyakumari District.



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R.SURESH KUMAR, J.
and
K.K.RAMAKRISHNAN, J.

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M.P(MD)No.1 of 2013

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