



W.P(MD)Nos.1709 and 7959 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.1709 and 7959 of 2022
and
W.M.P.(MD)No.1510 of 2022

W.P.(MD)No.1709 of 2022:-

C.Thirupathi

... Petitioner

Vs.

- 1.The Assistant Electrical Engineer / City,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tamil Nadu Electricity Board,
Batlagundu,
Dindigul District – 624 202.
2. The Assistant Executive Engineer / West,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tamil Nadu Electricity Board,
Batlagundu,
Dindigul District – 624 202.
- 3.The Assistant Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tamil Nadu Electricity Board,
Batlagundu,
Dindigul District – 624 202.



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4.P.Rajeshwari

5.P.Selva Prasath

6.Nagarathinam

7.M/s.Reliance Jio Infocomm Limited,
Rep. by its Authorized Signatory,
Having its Circle Office
At A1, Towers 89-91, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the Impugned Letter issued by the 1st Respondent dated 19.01.2022 in No.Woo.Mi.Po/Na/Va.Gundu/Ko-Thani/A.No./391/22 and to quash the same and consequently directing the Respondents 1 to 3 herein not to remove the electricity pole and electricity line already erected and put up in Survey No.1127/1D situate at Sevugarmpatti Village, Nilakottai Taluk, Dindigul District.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel for R1 to R3.
Mr.T.Arul,
For Mr.S.Balamurugan for R4 & R6.
Mr.R.Murali for R7.



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W.P.(MD)No.7959 of 2022:-

P.Rajeshwari

... Petitioner

Vs.

1.The Superintendent of Engineering,
Dindigul Electricity Distribution Circle,
TANGEDCO (TNEB),
Meenakshi Nayakanpatti,
Dindigul - 624002.

2.The Assistant Engineer (O & M),
TANGEDCO (TNEB),
Gandhi Nagar Road,
Batlagundu, Dindigul District.

3.Reliance Jio Infocomm Limited,
9th Floor, Marker Chambers – IV,
222, Nariman Point, Mumbai – 400021,
State of Maharashtra.

4.Reliance Jio Infocomm Limited,
A1 Tower, 8th Floor,
89-90, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600004.

5.Thirupathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 2 to remove the Electric Poles and Wires which are erected and draw in the middle of petitioner's patta land comprised in



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S.No.1127/1D situates at Sevugampatti Village, Nilakottai Taluk, Didigul

District within the time frame stipulated by this Court.

For Petitioner : Mr.T.Arul,
For Mr.S.Balamurugan

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel for R1 & R2.
Mr.R.Murali for R4.

COMMON ORDER

Heard both sides,

2.The question that calls for consideration is whether TANGEDCO was justified in informing Thiru.Thirupathi (petitioner in W.P.(MD)No.1709 of 2022) that it is proposed to remove the electric poles installed in S.No.1127/1D and also shift the electric lines drawn through the said poles. Thirupathi was called upon to offer his suggestion through which route he would be prepared to receive supply of electricity for the mobile tower installed on his patta land. Challenging the said communication dated 19.01.2022 issued by the



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Assistant Electrical Engineer, TANGEDCO, Batlagundu, W.P.(MD)No.

1709 of 2022 has been filed. Rajeshwari, in whose name the patta stands in respect of the said land has filed W.P.(MD)No.7959 of 2022 for directing TANGEDCO to remove the electric poles installed in the said survey number and for removal of the overhead lines drawn over the same.

3.The learned counsel for the petitioner in W.P.(MD)No.1709 of 2022 (C.Thirupathi) submits that the parties are presently locked in civil litigation and that this Court can call upon the parties to abide by the outcome of the suit. It is not in dispute that Thirupathi has filed O.S.No.346 of 2013 on the file of Additional Sub Court, Dindigul seeking the relief of specific performance. Thirupathi would want Rajeshwari and her children namely, Selva Prasath and Nagarathinam to sell the said property in his favour. The learned counsel also submitted that this Court can direct the trial Court to dispose of the suit within two months.

4.The learned counsel for Rajeshwari, the petitioner in the other writ petition, submits that the property as on date stands in the name of



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Rajeshwari's family and that therefore, since the poles had been put up without their consent, this Court ought to dismiss W.P.(MD)No.1709 of 2022 and allow W.P(MD)No.7959 of 2022.

5.The learned standing counsel for TANGEDCO submitted that they would abide by any order that may be passed by this Court.

6.I carefully considered the rival contentions and went through the materials on record. Of course, the learned counsel for Thirupathi would claim that Pitchai, the husband of Rajeshwari and Selva Prasath, her son had executed a power of attorney in favour of Thirupathi as early as on 29.11.2001 and that the said power of attorney will not get terminated on account of Pitchai's death on 06.11.2007. He relied on the decision of the Hon'ble Division Bench rendered in O.S.A.No.189 of 2007 dated 19.09.2008 (Prema Sudhamani and Others Vs. D.Krishnava Rao and Others).

7.Since Thirupathi had already filed a suit for specific performance, I am not called upon to pronounce on the issue if the power



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of attorney dated 29.11.2001 would get terminated on account of the demise of one of the executants.

8.The fact remains that as on date, patta stands in the name of Rajeshwari, Selva Prasath and Nagarathinam. The sale deed executed by Thirupathi on 31.12.2010 in his capacity as power agent in favour of his wife was subsequently cancelled by him on 17.05.2013. Thereafter, he filed O.S.No.346 of 2013 before Additional Sub Court, Dindigul for specific performance. Thus, even according to Thirupathi, the property as on date stands in the name of Rajeshwari and her children. It is also not in dispute that their consent was not obtained before installing two electric poles or drawing the overhead lines in S.No.1127/1D, Sevugampatti Village, Batalagundu.

9.The work in question was carried out only in terms of the Works of Licensees Rules, 2006. This is not the case in which permission had been obtained under Section 164 of the Electricity Act, 2003. Therefore, in the very nature of things, consent from the patta holder should have been obtained. Since it was not obtained, as and when objection was



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raised, TANGEDCO was justified in calling upon Thiru.C.Thirupathi at whose instance, the poles were laid and the lines were drawn to go for shifting.

10.Since for the last quite a few years, Thirupathi had been enjoying the facility of supply of electricity, shifting cannot be done overnight. Thiru.Thirupathi is the petitioner in W.P.(MD)No.1709 of 2022. Therefore, the burden to show that the land on which the electric poles have been laid belonged to him is on him. This burden has not been discharged. It is for this reason, I sustain the communication dated 19.01.2022 impugned in W.P.(MD)No.1709 of 2022. However, I grant ten weeks time from today ie., 03.10.2023 to Thiru.C.Thirupathi to make alternative arrangements. It is even open to Thirupathi to settle the issue with Rajeshwari. At the end of tenth weeks, if the issue is not resolved, the poles shall be shifted.

11.With this breathing time to Thirupathi, W.P.(MD)No.1709 of 2022 is dismissed.



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12.In view of the order passed in W.P.(MD)No.1709 of 2022,
W.P.(MD)No.7959 of 2022 is allowed. No costs. Consequently,
connected miscellaneous petition is closed.

03.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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