

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.27089 of 2015 &
M.P.No.1 of 2015

Kandasamy

[PETITIONER]

-Vs-

- 1 The Chairman
Tamil Nadu Electricity Board
NPKRR Maaligai
No. 144, Anna Salai,
Chennai - 600 002
- 2 The Superintendent of Engineer
General Construction Circle
Tamilnadu Electricity Board
Udaiyappatty, Salem.
- 3 The Executive Engineer
General Construction Circle/TLC
Tamilnadu Electricity Board
Udaiyappatty, Salem.
- 4 The Assistant Executive Engineer
General Construction Circle
Tamilnadu Electricity Board
Udaiyappatty, Salem.
5. The District Collector/District Magistrate
Namakkal
(R5 suo motu impleaded as per order dated 26.11.2015
in W.P.NO.27089 of 2015.)

[RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents not to build tower (LSR) in the petitioner land situated at S.No. 65/1A at Vadampatty Village, Namakkal District without due process of law.

For Petitioner

.. Mr.T.Ganesan

For Respondents

.. Mr.S.K.Raameshuwar

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.T.Ganesan, learned Counsel appearing for the petitioner and Mr.S.K.Raameshuwar, learned counsel appearing for the respondents.

3. The petitioner who is the owner of an extent of 1.50 acres in S.No.65/1A, Vedampatty Village, Namakkal District, has filed this Writ Petition to direct the respondents not to erect the Tower (LSR) in his land without following due process of law.

4. At the time when the writ petition was entertained, an interim order was granted to the effect that if the tower has already been erected, the cabling of the tower should not be installed. This interim order was subsequently extended.

5. The learned counsel for the petitioner submitted that no opportunity was granted to the petitioner by the respondents before the tower was erected and on 28.8.2015, a pit was dug by the employees of the Board and a concrete bed was established and without even giving sufficient time for concrete bed to cure, the tower has been erected and the petitioner is worried about the safety of the crops standing in the area and his safety as well. Further, it is submitted that on account of the tower, the petitioner is not in a position to fully utilise the land in question and therefore, the petitioner is entitled for adequate compensation.

6. The second respondent has filed a counter affidavit, contending that as per the Electricity Act, 2003, the Board has power to construct the transmission line in agricultural land. It is submitted that the Scheme details were published in the Government of Tamil Nadu Gazettee on 11th February 2015, as well as in the English and Tamil Dailys on 26.11.2014, calling for objections from the affected persons. But the petitioner did not sent any objection. Further, it is submitted that by virtue of the applicability of the Telegraph Act 1885, the Board is entitled to erect and draw the line through the agricultural land and the petitioner is not justified in obstructing the execution of the works which is a scheme. Further, it is submitted that the erection of the tower has been completed on 29.8.2015 and there is no possibility of changing the line as it is technically not feasible.

7. After hearing the learned counsel for the parties as well as the counter affidavit filed by the second respondent, it is seen that the Tower has already been erected on 29.8.2015. It appears from the submissions made before this Court that the petitioner is not seriously objecting to the erection of the Tower, but he is more

concerned about the award of compensation as well the safety aspects. According to him, adequate safeguards were not taken before erecting the tower and sufficient time was not given for curing of the concrete bed. If any objection is raised by the petitioner, then the procedure which is made applicable to such matter in terms of the Telegraph Act is for the respondent to approach the District Magistrate/District Collector.

8. Faced with this situation, the learned counsel for the respondents submitted that since there is urgency in the matter, the Board will approach the District Magistrate/District Collector, who may be directed to consider the matter on merits.

9. In the light of the above, the Writ Petition is disposed of giving liberty to the second respondent to move the District Collector, Namakkal, by way of a Petition, within a period of two weeks from the date of receipt of a copy of this order and if such petition is filed, the District Collector, Namakkal, shall issue notice to the petitioner as well as the respondent Board, hear the parties and pass a reasoned orders on merits and in accordance with law, within a period of three weeks from the date of receipt of the representation. Since the Tower has already been erected, the interim order granted to the effect that 'the cabling should not be installed', alone shall be maintained till orders are passed by the District Collector/District Magistrate, Namakkal. Since, the said authority is not a party in this writ petition, this Court suo motu impleaded the said authority as the fifth respondent in this writ petition and the Registry is directed to suitably amend the cause title. No costs. Consequently, connected Miscellaneous Petition is closed.

Rpa

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

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Tamil Nadu Electricity Board
NPKRR Maaligai
No.144, Anna Salai
Chennai - 600 002

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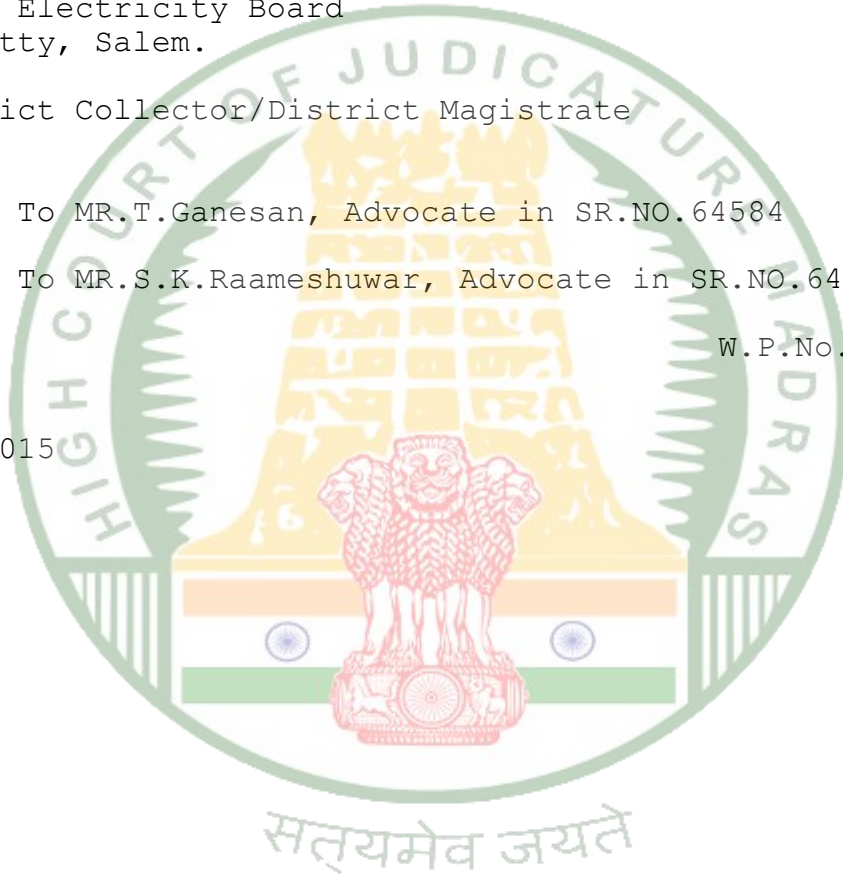
+2 C.C. To MR.T.Ganesan, Advocate in SR.NO.64584

+1 C.C. To MR.S.K.Raameshuwar, Advocate in SR.NO.64785

W.P.No.27089 of 2015

VS (CO)

sd : 09/12/2015



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