

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.9807 of 2011

and

M.P.No.1 of 2011

M.Palaniappan

... Petitioner

Versus

1. The District Revenue Officer cum  
The District Magistrate,  
Namakkal.

2. The Executive Engineer,  
Transmission Line Construction,  
TANTRANSCO (TNEB),  
Udayapatty, Salem - 636 014.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the second respondent, his officers, men, agent and servants from digging the earth or constructing a tower in Survey No.102/2, Aariyur Village, Namakkal Taluk and District.

For Petitioner : Mr.R.Subramanian

For Respondent 1 : Mr.R.Rajeswaran  
Special Government Pleader

For Respondent 2 : Mr.P.H.Aravind Pandian  
Additional Advocate General,  
assisted by Mr.S.K.Raameshuwar

ORDER

The petitioner seeks for issuance of Writ of Mandamus to forbear the second respondent from digging the earth or constructing a Tower in Survey No.102/2, Aariyur Village, Namakkal Taluk and District.

2. The petitioner is an Agriculturist, and adjacent to his land, there is a land, comprised in Survey No.102/2, which, even according to the petitioner has been classified as "Odai Poromboke land". The petitioner would state that the ingress and egress to his property is through the said land, and it is a pathway, and the petitioner and others have been using the pathway. Now, the second respondent Board has proposed to erect a huge transmission Tower for the purpose of linking a Co-generation Plant at Mohanur Sugar Mill with Valavanthi 110 KVSS through 110 KV line to the Valvanthi 110 KV SS to improve the voltage condition and to extend High tension supply to the upcoming Industries in and around the Namakkal and Salem Districts. Therefore, the petitioner approached this Court, filing the revenue records to show the classification of the land, and also the photographs showing the pathway and demonstrating that the tower is proposed to be erected amidst the pathway.

3. The counter affidavit of the second respondent-Electricity Board states that total number of Towers erected were 32, out of which, 31 Towers have been completed, and the land being a poromboke land, an objection was raised to erect the Tower in the said land.

4. It is to be noted that, when the Writ Petition was entertained on 18.04.2011, an order of interim injunction was granted by this Court, and the injunction was continuing, as a result of which, the Tower could not have been erected till date. Now the issue would be as to who has to decide the dispute, and examine as to whether the tower could be erected in the said land. The machinery is provided under Section 16 or Section 17 of the Indian Telegraph Act, which is made applicable to the Electricity Board. The District Collector is empowered to consider the objection and examine as to whether the objection is sustainable and take a decision in the matter, for which purpose, it is the Board, which has to file a Petition before the District Collector. Since the petitioner has raised objection and obstruction, the learned Additional Advocate General submitted that the Board will immediately move to the District Collector, Namakkal District for necessary reliefs.

5. In the light of the above, the Writ Petition is disposed of, leaving it open to the second respondent to approach the District Collector, Namakkal for necessary relief, since the petitioner has objected to the erection of the Tower in the said

land. On such petition being filed, the District Collector shall consider the same, after notice to the second respondent and the petitioner, as expeditiously as possible, preferably, within a period of eight weeks, from the date on which the parties are heard finally. Since the petitioner had the benefit of the order of interim injunction, the Tower in question shall not be erected till final orders are passed by the District Collector, Namakkal District. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The District Revenue Officer cum  
The District Magistrate,  
Namakkal.
2. The Executive Engineer,  
Transmission Line Construction,  
TANTRANSCO (TNEB),  
Udayapatty, Salem - 636 014.

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.61663  
+1cc to Mr.R.Subramanian, Advocate, S.R.No.61670  
+1cc to the Government Pleader, S.R.No.62046

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WP.No.9807 of 2011

JSV(CO)  
CA(23/11/2015)

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