

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25/11/2015

C O R A M

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.37473 of 2015

G. Kannan

... Petitioner

Vs

1. The District Collector
Thiruvallur.

2. The Superintending Engineer
Construction Division - 1
A-10 Thiru-vi-ka Nagar
Industrial Estate
Guindy
Chennai 600 032.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in Lr.No.SE/GCC-I/CNI/AEE/GL/CHD/F.W.P.20959 of 2015/D.No.1737/15 dated 16/10/2015 on the file of the second respondent, quash the proceedings therein as illegal, incompetent, unconstitutional, irregular and without jurisdiction and further direct the second respondent from interfering the petitioner's peaceful possession and enjoyment over the property bearing S.No.21/1A1, A1, A1,A1 comprised in patta No.872, measuring 1122 sq.ft situate at vellanoor village Avadi, Thiruvallur District.

For petitioner : Mr.V.Raghavachari

For respondents : Mr.R.Vijayakumar
Additional Government Pleader
for R.1.

Mr.P.R.Dhilip Kumar for R.2.

O R D E R

With the consent of the learned counsel appearing for the parties, this writ petition is taken up for final disposal, at the admission stage itself.

2. Heard Mr.V.Raghavachari for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader for the first respondent and Mr.P.R.Dhilip Kumar for the second respondent.

3. This writ petition has been filed praying to call for the records in Lr.No.SE/GCC-I/CNI/AEE/GL/CHD/F.W.P.20959 of 2015/D.No.1737/15 dated 16/10/2015 on the file of the second respondent, quash the proceedings therein as illegal, incompetent, unconstitutional, irregular and without jurisdiction and further direct the second respondent from interfering the petitioner's peaceful possession and enjoyment over the property bearing S.No.21/1A1, A1, A1,A1 comprised in patta No.872, measuring 1122 sq.ft situate at vellanoor village Avadi, Thiruvallur District.

4. The petitioner would state that he is the absolute owner of the property in question having purchased the same by a valid sale deed. In the meanwhile, steps were taken by the second respondent to erect a high tension tower and the petitioner would state that without any notice, the second respondent and their officials, attempted to erect tower. The petitioner would further state that if the tower is erected on the property, the usage of the vacant property would be affected. It is further submitted that the petitioner would be landless and his rights would be seriously jeopardise.

5. Earlier, the petitioner had approached this Court in W.P.No.20959 of 2015, to seek a writ of mandamus, not to interfere with his peaceful possession of his property. The said writ petition was disposed of by an order dated 14/7/2015, directing the petitioner's representation dated 5/7/2015 to be considered and left it open to the petitioner to approach the jurisdictional District Magistrate/District Collector in this regard.

6. Thereafter, the petitioner's representation was considered and the impugned order has been passed.

7. Though the impugned order has been challenged on several grounds, this Court is of the view that the correctness of the impugned order need not be gone into, for the simple reason that in the event of an obstruction or an objection made by the land owner for the erection of the high tension tower, the remedy available to the second respondent

Board is to approach the jurisdictional District Magistrate/District Collector for removal of the obstruction/objection.

8. Accordingly, the second respondent/Board is directed to approach the District Collector, by way of an appropriate representation and it is the Collector, who will have to take a decision in the matter, after due notice to the parties and after perusing all the documents.

9. In the proceedings to be conducted by the District Collector, the District Collector is entitled to examine all the documents produced by the petitioner and thereafter, come to a conclusion as to whether the objection is sustainable or frivolous.

10. In the light of the above, without setting aside the impugned order as being unnecessary, the writ petition is disposed of, by directing the second respondent to file an appropriate application before the first respondent, within a period of eight weeks, from the date of receipt of a copy of this order. On receipt of the said application, the first respondent shall issue notice to the petitioner as well as to the second respondent, affording an opportunity of hearing to the parties in person and in accordance with law, within a period of eight weeks, from the date on which the personal hearing is concluded. Till the first respondent concludes the aforesaid hearing, status-quo prevailing as on date shall be maintained in terms of the above direction. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

mvs.

To

1. The District Collector
Thiruvallur.
2. The Superintending Engineer
Construction Division - 1
A-10 Thiru-vi-ka Nagar
Industrial Estate
Guindy, Chennai 600 032.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.63993
+1cc to the Government Pleader, S.R.No.64236

+ 1 CC TO MR.P.GUNARAJ, ADVOCATE SR 63837 (7/1/16)

W.P.No.37473 of 2015

BVR(CO)
CA(11/12/2015)



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