

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition Nos.1895 & 3472 of 2012

Dated 27.08.2015

WP.1895/12

Between:

A.Kanaka Durga Prasad

... Petitioner

and

-
Additional Assistant Engineer
Operations
Southern Power Distribution Company
Nandiwada and 7 others

...Respondents

Counsel for the Petitioner: Mr.Y.Koteswara Rao

**Counsel for respondents 1 to 3: Mr.T.Janakaraj
 for Mrs.Jagarlamudi Koteswari**

Devi,

SC for APSPDCL

Counsel for respondent No.4: Mr.N.V.Ramanujam

Counsel for respondent Nos.5 to 8: None appeared

WP.3472/12

Between:

Ch.Siddardha Raju

... Petitioner

and

-
The Additional Assistant Engineer
Operations
Southern Power Distribution Company
Nandiwada and 4 others

...Respondents

Counsel for the Petitioner: Mr.N.V.Ramanujam

**Counsel for respondents 1 to 4: Mr.T.Janakaraj
 for Mrs.Jagarlamudi Koteswari**

Devi,

SC for APSPDCL

Counsel for respondent No.5: Mr.Y.Koteswara Rao

The Court made the following:

Order:

As the subject matter and the parties in both these Writ Petitions are common, they are heard and being disposed of together.

For convenience, the parties are referred to as they are arrayed in WP.No.1895 of 2012.

WP.No.1895 of 2012 is filed for a Mandamus to declare the action of respondent Nos.1 to 3 in giving power supply to the service connections bearing Nos.202, 203, 204 and 205 belonging to the petitioner and situated at Ponukumadu Village, Nandiwada Mandal, Krishna District, by laying an electrical line over the tank bund (wrongly mentioned as tank bed in the prayer) of the petitioner.

WP.No.3472 of 2012 is filed by respondent No.4 for a Mandamus to declare the inaction of respondent Nos.1 to 3 and also the Superintendent Engineer (arrayed as respondent No.4 in WP.No.3472 of 2012), in restoring power supply to

the aforesaid service connections belonging to him, as illegal and arbitrary.

I have heard Mr.Y.Koteswara Rao, learned Counsel for the petitioner, and Mr.N.V.Ramanajum learned Counsel for respondent No.4.

It is the pleaded case of the petitioner that he is running a small fish tank over his patta land; that to the eastern side of his land, respondent No.4 is maintaining a huge fish tank over an extent of Acs.70-00 cents; that on the northern side of his tank, he has laid a bund of the width of 8 yards to enable himself to take the tractor around the tank for his fishing operations; that adjoining the bund and also the land of respondent No.4 on the northern side, an irrigation canal is in existence; and that immediately adjoining the irrigation canal, the Government Porambok land of the width of 40 yards is available. The grievance of the petitioner is that to facilitate extension of power supply to the fish tank of respondent No.4, respondent Nos.1 to 3 have laid an electrical line over the bund laid by him, thereby, preventing the vehicles such as tractors from being plied on the said bund.

The petitioner also pleaded that respondent

No.4 has given a false police report against him alleging that he has cut the electrical wires in order to interrupt power supply to the service connections of respondent No.4, based on which Crime No.96 of 2011, on the file of Nandivada Police Station, Krishna District, was registered. The learned Counsel for the petitioner submitted that, recently, the said case ended in the petitioner's acquittal.

Respondent Nos.1 to 3 and 4 filed separate counter-affidavits. While respondent No.4 in his counter-affidavit has asserted that the petitioner has laid the bund over the poramboke land unauthorisedly, respondent Nos.1 to 3 in their counter-affidavit stated that as there is a dispute as to whether the petitioner has laid the bund in his patta land or in the Government poramboke land, respondent No.2 has *vide* his Letter No.ADE/OSD/GDV/Town/D.No.1641, dated 21.11.2011, requested respondent No.7- Deputy Inspector of Survey, Gudivada, to clarify whether the area, over which the electrical poles were erected, forms part of the Government poramboke land and that respondent No.7 in his report, dated 07-12-2011, has informed that as the petitioner's

tank is full of water, the survey stones were not visible to survey the land and that the survey can be carried out after the water in the tank is dried up.

From the respective pleadings of the parties, it is evident that the only dispute to be resolved is whether the tank bund was laid by the petitioner over his patta land or over the Government poramboke land either fully or in part.

If, after conducting survey, it comes out that the petitioner has laid the bund over his patta land, the respondents are bound to shift the electrical line. On the contrary, if the petitioner has laid the bund over the Government poramboke land, the electrical line is not liable to be shifted. As respondent No.7 expressed his inability to conduct survey for resolving the above dispute unless the petitioner's fish tank is dried, it is appropriate that the petitioner dries up his fish tank to facilitate such survey.

Accordingly, Writ Petition No.1895 of 2012 is disposed of in the following terms:

1. As and when the petitioner dries up his fish tank, he is entitled to inform respondent No.2 in writing about the said fact with a request to him to get the survey done;

2. Within one week of receipt of such letter, respondent No.2 shall request respondent No.7 to hold survey and furnish his report. He shall also ensure that within two weeks thereafter, respondent No.7 conducts survey, after issuing notices to the both the parties;
3. Respondent No.7 shall, accordingly, conduct survey and furnish his report to respondent No.2; and
4. If the survey report reveals that the tank bund is laid over the petitioner's patta land, respondent Nos.1 to 3 shall initiate immediate steps and shift the line at the expense of respondent No.4 and in a converse case, no such shifting is necessary.

As regards Writ Petition No.3472 of 2012, learned Counsel for respondent No.4 submitted that in pursuance of the interim direction granted by this Court on 10-02-2012, the power supply was restored and that the same is being continued. He has, therefore, submitted that no further adjudication of this Writ Petition is necessary.

The above-submission of the learned Counsel for respondent No.4 is placed on record and Writ Petition No.3472 of 2012 is disposed of as infructuous.

As a sequel to disposal of these two Writ

Petitions, miscellaneous petitions, pending if any,
stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 27th August, 2015
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