

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.24230 OF 2015

ORDER:

The petitioner is the owner and possessor of the plots bearing Nos.13 and 14 out of Survey Nos.1476, 1477, 1479 and 1480, admeasuring 160 square yards situated at Raghavendra Colony, Nalgonda town and District. He claims to have purchased the same under a registered sale deed, dated 16-10-1990 from a lay out made by the owners. The width of the plot is 24 feet facing the PWD 100 feet road connecting Nalgonda to Narketpally. The land is vacant and the petitioner states that he is planning to construct mulgies in the said plot facing the PWD road. When Raghavendra Nagar Colony residents tried to erect an arch as an entry to colony in the parking area obstructing the way to his plot, he filed O.S.No.601 of 2007 on the file of the Junior Civil Judge, Nalgonda and the said suit was decreed stopping the erection by the Raghavendra Nagar Colony people. It is the case of the petitioner that the colony members instigated the Electricity Department for erecting a transformer abutting the proposed mulgies facing towards PWD road, and it may obstruct his ingress and egress. The petitioner states that when a pit was dug abutting his plot, he orally objected and also submitted a written representation, dated 01-08-2015. When a platform for transformer was constructed, the present writ petition is filed and the writ petition was adjourned from 04-08-2015 to today for instructions of the respondents.

2. The respondents filed counter affidavit stating that the Government sanctioned a scheme to improve the Electricity Supply system including correction of Low Voltage and for the said purpose, the erection of Sub-Stations, Distribution Transformers and Conversion of

Lines (Single Phase to Three Phase) is being taken up. For the entire Nalgonda town, 94 transformers were sanctioned and erection has commenced. The platform for the transformer was constructed at a distance from the plot alleged to have been owned by the petitioner. The transformer is being erected at a height of more than eight feet from the ground level on a single pillar so that it does not cause any hindrance for free movement of people. The transformer is being erected as per the survey conducted by the authorized officers and it was erected on the road margin, which is in the control of the Municipality. Though the respondents tried to contact the petitioner several times and explain to him that the place of erection does not fall within the area, which is alleged to be owned by him, he has not responded. The respondents have no intention to block any person's property.

3. Learned counsel for the petitioner placed reliance on Section 67 of the Electricity Act, 2003 (for short 'the Act') read with Rules made therein called the Works of Licences Rules, 2006 (for short 'the Rules'). Section 67 of the Act deals with provision as to opening up of streets, railways etc., and it enables the appropriate Government to make Rules. The learned counsel for the petitioner submits that Rules provide for consent in writing of the owner or occupier for carrying out the work. The counsel for petitioner also placed reliance on Rule 3 of the Rules, which reads as follows:

“3.Licensee to carry out works:- (1) A licensee may-

- (a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, whenever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land;
- (b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of an overhead line on any building or land or having been

so fixed, may alter such support.”

He submits that even when work is carried out “against” any building or land, the consent of the neighbouring owner has to be obtained.

4. On the other hand, learned standing counsel for the respondents submits that no work is being carried out on the land of the petitioner and the platform for transformer was constructed on the land belonging to the Municipality.

5. In the circumstances, the learned counsel for the petitioner submits that even erection of a transformer in the land abutting or nearer to the land of the petitioner would come within the scope of Rule 3 of the Rules and the consent of the petitioner has to be obtained.

6. The facts disclose that the proposed transformer is going to be erected at a height of more than eight feet on a single pillar in order not to cause any inconvenience to the ingress and egress of the neighbouring plot owner. As on today, plot owned by the petitioner is vacant and it was covered by two roads. It is pre-mature to say that the said pillar is obstructing his ingress and egress. The respondents have to take necessary steps for erection of transformer, for which purpose a survey was conducted. The proposed transformer is going to be erected in the Municipal land. In the circumstances, it cannot be said that they are erecting the transformer “against” the land owned by the petitioner in order to attract Rule 3 of the Rules. The writ petition is devoid of merits and is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

DATED: 24-08-2015
Hsd

A.RAMALINGESWARA RAO, J