

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

WRIT PETITION No. 17778 OF 2012

Between:

Masuram Srinivasulu,
S/o Venkataiah and six others.

... Petitioners

And

The APCPDCL, Hyderabad,
reptd by its Chief General Manager
and four others.

... Respondents

DATE OF JUDGEMENT PRONOUNCED: 22-07-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes |

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> Head Note:

! Counsel for the Petitioners: Sri P.S.P.Suresh Kumar

^ Counsel for Respondent Nos.1 to 4: Sri R.Vinod Reddy

^ Counsel for Respondent No.5: Sri K.Jagadeshwar Reddy

? Cases Referred:

NIL

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Counsel for the Petitioners: Sri P.S.P.Suresh Kumar

Counsel for Respondent Nos.1 to 4: Sri R.Vinod Reddy

Counsel for Respondent No.5: Sri K.Jagadeshwar Reddy

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside memo No.CGM/OP/RRZ/HYD/DE(T)/ADE-II/F.No.DCW/D.No. 3094/11/12, dated 21.12.2011 of respondent No.1 and the consequential proceedings, vide Lr.No.SE/OP/NLG/CommI/ F.No.Turnkey/D.No.2804, dated 24.12.2011, of respondent No.2.

I have heard Sri P.S.P.Suresh Kumar, learned counsel for the petitioners, Sri R.Vinod Reddy, learned Standing Counsel for the Telangana State Southern Power Distribution Company Limited appearing for respondent Nos.1 to 4 and Sri

K.Jagadeshwar Reddy, learned counsel for respondent No.5.

The dispute raised in this Writ Petition relates to the proposed shifting of the existing 33 KV Gudapoor and Cheekatimamidi feeders line, which is at present passing over the various lands including that of respondent No.5, through the residential plots and houses in Survey Nos.1465, 1466 and 1473 of Padmanagar, Nalgonda Town.

It is the pleaded case of the respondents that as the agricultural lands over which the existing 33 KV line is passing have been converted into house plots, representations were made by the owners of those lands including respondent No.5 to shift the said line; that accordingly, an estimate was prepared; and that as per the said estimate, the proposed line should pass along the streets on the road margin.

Sri P.S.P.Suresh Kumar, the learned counsel for the petitioners, submitted that as per Condition No.6 of sanction letter, dated 24.12.2011, there should not be any 11 KV/LT lines passing through from other source of supply in the proposed premises.

In para-5 of the counter-affidavit, filed on behalf of respondent Nos.1 to 4, the phrase "other source of supply" is explained by stating that if the lines are emanating from other sub-stations, the bar on laying the proposed line applies and that in the present case, the existing 33 KV line which is passing along the road emanates from the same sub-station, viz., 132 KV sub-station, Nalgonda.

The respective pleadings of the parties would reveal that in order to alleviate the grievance of respondent No.5 and other similarly situated persons whose lands are being affected by the existing 33 KV line, respondent Nos.1 to 4 are seeking to shift the said line.

In my opinion, such shifting shall not cause inconvenience to the petitioners and other residents of Padmanagar colony, Nalgonda Town, through which the line is being laid. While the right of an electrical licensee to lay the line over public streets cannot be disputed, at the same time, the licensee shall ensure that the extant Rules providing for minimum distances from the residential houses are strictly followed.

Rule-77(2) of the Indian Electricity Rules, 1956 (for short 'the Rules') prescribes the minimum height for high voltage lines erected along any street. As per this Rule, in respect of high voltage lines, the conductor of an overhead line, including service lines, erected along any street shall at any part thereof be at a height of not less than 5.8 meters. Similarly, Rule-80(2) of the Rules prescribes that the minimum horizontal clearance between the nearest conductor and any part of such building for high voltage lines up to and including 11,000 volts

shall be 1.2 meters.

If respondent Nos.1 to 4 can adhere to these vertical and horizontal clearances, there can be no legal embargo on them for shifting the existing 33 KV line.

Learned counsel for the petitioners submitted that as the width of the street is only 20 feet, it may not be possible for respondent Nos.1 to 4 to maintain the prescribed clearances.

In my opinion, it is for respondent Nos.1 to 4 to examine the feasibility before shifting the existing 33 KV line. However, in order to maintain the horizontal and vertical clearances, respondent Nos.1 to 4 shall not occupy either the road margin or the road portion, thereby, reducing the width of the existing road and cause inconvenience to the commuters.

In the light of the above discussion, the Writ Petition is disposed of in the following terms:

- (1) Respondent Nos.1 to 4 shall re-examine the technical feasibility of laying the 33 KV line along the street(s) at which the houses of the petitioners are located;
- (2) They are permitted to shift the line by erecting the poles along the street(s), without encroaching upon the road and major part of the road margin by maintaining the vertical and horizontal clearances as per Rule-80(2) of the Rules; and
- (3) If, conversely, they are not able to maintain the clearances, as referred to in (2) supra, they shall not lay the line and instead, they shall either drop further action of shifting the 33 KV line or find an alternative way for shifting of the same.

As a sequel to the disposal of the Writ Petition, W.P.M.P.No.22748 of 2012 and WVMP.No.3361 of 2012 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

22nd July 2015
DR