

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12404 of 2015

and

M.P.No.1 of 2015

- 1.Lakshmana Gounder
- 2.Periyasamy Gounder
- 3.Angamuthu Gounder
- 4.Gurusamy Gounder

... Petitioners

Versus

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai - 600 002.
2. The Chief Engineer,
Tamil Nadu Electricity Board,
Mannarpuram,
Trichy - 620 020.
3. The Superintendent Engineer,
Kovai Electricity General Construction Circle,
Tatabad,
Coimbatore - 641 012.
4. The District Collector
Tirupur.
(Suo motu impleaded as
per order of this Court
dated 29.03.2016.)

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, calling for the records of the third respondent dated 12.03.2015 vide Letter No.மே.பொ/பொ.க.வ/கோவை/உ.செ.பொ/கோ.கட்டு/அ.எண்.953/2015 and quash the same and consequently direct the respondents to forbearing the identification of the way erecting High Tension Tower No.22 at petitioners land bearing Survey No.1055/2A, New Re-Survey No.385/2A situated at Pappini Village, Kangeyam Taluk.

For Petitioners : Mr.M.Saravanakumar

For Respondents : Mr.S.K.Rameshuwar

O R D E R

Heard Mr.M.Saravanakumar, learned counsel appearing for the petitioners and Mr.S.K.Rameshuwar, learned counsel appearing for the respondents, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioners seek to set aside the impugned proceedings passed by the third respondent dated 12.03.2015 by which the request made by the petitioners to shift the High Tension Tower slightly to the western boundary of the petitioners property has been rejected on the ground that this may result in objection from the neighbouring land owners.

3. After hearing the learned counsel appearing for the parties and perusing the counter filed by the respondent, it is evident that the reason assigned in the impugned proceedings for rejecting the petitioners request for a westward shift is untenable. The authority should have considered the petitioners request, examine the feasibility and if there are any technical reasons which prevents the respondent from shifting the proposed tower to the western side, then, there could have been some justification. Even if it is so, that is also liable to be tested for its correctness. Therefore, the reason assigned in the impugned order has to be necessarily set aside. That apart, counter affidavit also does not state as to why it is not feasible to accept the request made by the petitioners. The dispute raised by the petitioners need not be gone into at this stage, since the petitioners having made an objection, in terms of the provision of the Indian Telegraphic Act, 1885 (13 of 1885), the proper procedure for the respondent Board is to approach the District Collector of the concerned District and submit their request for granting permission and if such request is made, the District Collector shall after hearing the parties, examine the contentions and should pass a reasoned order.

4. The learned counsel appearing for the respondent / Board on instructions submitted that the respondent / Board will move the District Collector, concerned District, which is Tirupur District. However, it is seen that the District Collector, Tirupur District is not a party respondent in this writ petition. Therefore, the said District Collector is suo motu impleaded as fourth respondent.

5. Accordingly, the writ petition is allowed and the

impugned order is set aside for the reasons stated supra.

6. It is submitted by the learned counsel appearing for the respondent / Board that since the writ petition was pending and there are no interim orders, the third respondent has already filed an application before the fourth respondent on 01.04.2015 in letter D.No.1257/2015. If the District Collector is already in receipt of the same, he shall issue notice to the petitioners enclosing a copy of the said application along with the enclosures and grant two weeks' time to the petitioners to file their objections and thereafter hear the parties in person and consider their objections and pass appropriate orders within a period of four weeks from the date on which the objections are received.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

- 1.The Chairman,
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- 3.The Superintendent Engineer,
Kovai Electricity General Construction Circle,
Tatabad,
Coimbatore - 641 012.
- 4.The District Collector
Tirupur.

+ 1 cc to Mr.M.Saravanakumar, Advocate, SR 19462

+ 1 cc to Mr.S.Raameshuwar, Advocate, SR 19525

sr(co)
prk22/4

W.P.No.12404 of 2015
and



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