

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S. SIVAGNANAM

W.P.No.19310 of 2015

K.N.Kuppusamy Educational Trust,
represented by its Found Chairman,
No.411, Velayutha Nagar, Jayamkondam,
Ariyalur District - 621 802. .. Petitioner

Vs

1. The District Collector,
Ariyalur District.
2. The Tamilnadu Transmission Corporation
Ltd.,
represented by its Chairman,
No.144, Anna Salai,
Chennai 600 002.
3. The Superintending Engineer,
Tamilnadu Transmission Corporation,
General Construction Circle,
Trichy 620 020.
4. The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District. .. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 3rd respondent in his letter dated 20.4.2015 in Lr.No.SE/GCC/TRY/AEE.GL/AEC/DB/F.Jkm. 110KVLine/D.No.472/2015, quash the same and consequently, direct the respondents to erect the 110 KV Kadalangudi - Aduthurai - Neyveli feeder Double circuit transmission line along the western side of the property owned by the petitioner Trust in Angarayanallur Village, Udayarpalayam Taluk, Ariyalur District .

For Petitioner :Mr.J.Abishek

For Respondents :Mr.R.Rajasekaran
Spl. Government Pleader (R1 & R4)
Mr.P.Gunaraj,
Government Advocate (R2 and R3)

ORDER

Heard Mr.Mr.J.Abishek, learned counsel appearing for petitioner and Mr.R.Rajasekaran, learned Special Government Pleader appearing for respondents 1 and 4 and Mr.P.Gunaraj, learned standing Counsel appearing for respondents 2 and 3/Tamilnadu Transmission Corporation Ltd.

2.The petitioner is an Educational Trust running educational institutions in Ariyalur District from the year 2002. In this Writ Petition, the petitioner has challenged the proceedings of the third respondent dated 20.4.2015, by which, the request made by the petitioner for shifting the location of towers, which the respondent Tamilnadu Transmission Corporation proposed to be erect, to the western side of the petitioner's property, so that the institutions which are functioning in the campus will not be affected, as there were several buildings constructed by the petitioner which were scattered in and around the area owned by the petitioner. Apart from other things, the petitioner pointed out that there is already a single circuit transmission line is passing through the petitioner's property and for such purpose, two towers have been erected in the petitioner's property. Now the proposal is to convert the single circuit line into a double circuit line, wherein, the line will pass one below the another and for drawl of such line, the existing towers which support the single line appears to be not sufficient, for which purpose, those two towers are to be dismantled and new towers to support the double circuit line has to be installed.

3. Therefore, the petitioner approached the respondent with a request to shift the existing main line towards the western side within the property of the petitioner and locate the two towers within the property of the petitioner, so that the utility of the land is not wasted and the buildings already existing used for educational purposes are not affected. This request made by the petitioner among other contentions raised were not considered by the 3rd respondent and the impugned order has been passed. Several grounds have been raised in the Writ petition challenging the impugned proceedings.

4. At the time, when the Writ Petition was entertained, the Court passed an order of Status Quo on 2.7.2015 recording a prima facie finding as to why the petitioner is entitled to interim direction. For better appreciation, the order is quoted herein below

"Notice of motion returnable by 18.08.2015.

2. Mr.R.Muthukumarasamy, learned Senior counsel appearing for the petitioner would submit that there is already 110 KV existing service line runs across the petitioner college. They wanted to replace the said single line circuit with new one by double circuit line. The existing location towers bearing Nos.34, 35 and 36 which are inside the petitioner's College campus are to be converted as cut points with special square cross arm arrangement. In that event, the buildings already constructed will be affected. Therefore, the petitioner has suggested alternate route which involves less distance of transmission line. The R.D.O., Udayarpalayam, enquired the matter and communicated the same to the first respondent also. However, a letter has been received by the petitioner from the 3rd respondent indicating the cost as Rs.44 lakhs. Learned senior counsel further submitted that no conversion has taken place so far. Hence, he prays for an interim order.

3. The Court heard the submission of Mr.M.Digvijaya Pandian, learned Additional Government Pleader, who accepts notice for respondents 1 and 4 and Mr.P.Gunaraj, learned counsel who accepts notice for respondents 2 and 3.

4. It is not in dispute that there exists 110 KV circuit line which runs through the campus of the petitioner college and a decision has been taken to replace a new one by double circuit line. Admittedly, the location of towers bearing No.34, 35 and 36 are located inside the college campus. A perusal of the field map produced and enclosed in the typed set of papers would disclose that the proposed line runs close to the already existing building of the College. It is the contention of the petitioner that the alternate route for erection of towers suggested

by the petitioner involves less distance of transmission line and it will also reduce the cost of erection and without properly taking into consideration, the 3rd respondent has proceeded further in pursuant to the impugned proceedings dated 20.04.2015.

5. This Court, in the light of the facts and circumstances of the case, is of the opinion that a prima facie case is made out for grant of interim order. Hence, there shall be an order of status quo as exist today and the same to be maintained by both the parties till 18.08.2015. Notice. "

5. Today, when the matter is taken up for hearing, Mr. P.Gunaraj, learned Standing Counsel appearing for the respondent Tamilnadu Transmission Corporation submitted that the matter may be referred to the District Collector who has been impleaded as first respondent in the Writ Petition who may consider the matter after notice to the parties. In terms of Section 164 of Tamilnadu Electricity Act 2003, the provisions of Indian Telegraph Act 1885 have been made applicable to the powers to be exercised by the authorities under the Tamilnadu Electricity Act 2003. In the cases where objections are raised by the land owners objecting to the proposal of the respondents, they have to necessarily resort to the procedure contemplated under the Indian Telegraph Act 1885, in the light of Section 164 of the Tamilnadu Electricity Act, 2003.

6. On instructions, learned counsel appearing for the respondent Tamilnadu Transmission Corporation submits that they will approach the District Collector by filing appropriate application and the same may be directed to be considered by the District Collector as expeditiously as possible since the project is of utmost importance and the power has to be evacuated from the Neyveli Lignite Corporation.

7. In the light of the above, the Writ Petition is allowed and the impugned order is set aside for the reason that the matter has to be considered by the District Collector afresh and there will be a direction to the respondents 2 and 3 to file appropriate application before the 1st respondent setting out all the issues serving advance copies on the petitioner and on entertaining the application, the 1st respondent shall issue notice to the petitioner as well as respondents 2 and 3 herein and hear the parties in person and pass a reasoned order on merits and in accordance with law within a period of three

months from the date of receipt of a copy of this order. Since this Court has set aside the impugned proceedings, the District Collector should independently decide the matter uninfluenced by any observations made in the impugned order which has now been set aside. Since the petitioner had the benefit of status quo, the status quo prevailing as on 2.7.2015 shall continue to be maintained till the matter is decided by the 1st respondent in terms of the above direction.

8. In fine, the Writ Petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Ariyalur District.
2. The Tamilnadu Transmission Corporation
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Trichy 620 020.
4. The Revenue Divisional Officer,
Udayarpalayam,
Ariyalur District.

+1cc to Mr.A.Jenasenan, Advocate, S.R.No.23806
+1cc to Mr.P.Gunaraj, Advocate, S.R.No.23385
+1cc to the Government Pleader, S.R.No.23500

W.P.No.19310 of 2015

ev (CO)
srg (26/04/2016)