

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 17872 of 2016

&

W.M.P. Nos. 15564 & 16947 of 2016

G. Arunkumar

..Petitioner

Vs.

1. The District Collector,
Dharmapuri District,
Dharmapuri.
 2. Power Grid NM Transmission Ltd.,
rep. by its Chief Manager,
The Government of India Enterprises,
765 KV S/C Dharmapuri - Madhugiri Line,
Construction Area Office,
Power Grid 400/200 KV substation,
26th Km - Kanakapura Road,
Somanahalli P.O.,
Bengaluru - 560 082.
- ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 27.04.2016 made in Ref. No. PGNMTL/SOM/C-370(G)/416 passed by the 2nd respondent, quash the same and consequently, forbear the 2nd respondent and their men, agents, from in anyway installing transmission line in patta land in Survey No.210/2C, 204/2, in Periyannur Village, Palacode, Dharmapuri District.

For Petitioner :: Mr.S. Vijayakumar
For Respondents:: Mr.RM. Muthukumar,
Govt. Advocate for R1
Mr.Kalyanaraman for
M/s. Aiyar & Dolia for R2

O R D E R

The petitioner challenges the order passed by the 2nd respondent by which the realignment of the transmission line, as proposed by the petitioner, has been rejected.

2. The petitioner is owner of the property comprised in S.No. 210/2C, 204/2, in Periyannur Village, Palacode, Dharmapuri District. The 2nd respondent Company, which is a fully owned subsidiary of Power Grid Corporation of India Ltd., a Government of India Enterprise and "The Central Transmission Utility" under the aegis of Ministry of Power, has been formed for the purpose of execution/construction of 765KV Power Transmission Line from Nagapattinam Pooling Station to Salem (Dharmapuri) in Tamil Nadu State and from Salem to Madhugiri (Tumkur) in the State of Karnataka. According to the petitioner, his property is situated near the main road and the value of the lands are very high. Therefore, in the event of installation of high tension power line, if the said circuit Nagapattinam - Dharmapuri - Tumkur line is allowed to pass through his private property, then the value of the property would come down. Hence, objecting to the proposal of the 2nd respondent, to construct the tower lines over the petitioner's property, he submitted an objection letter on 05.04.2016 to 2nd respondent and also placed an alternate proposal. Pursuant to the said objection raised and the alternate proposal put forward by the petitioner, a joint site inspection was made on 09.04.2016 by the 2nd respondent. However, it was found that re-alignment, as proposed by the petitioner, would not be possible and therefore, by the impugned order dated 27.04.2016, the petitioner's objection and his alternate proposal were rejected. Hence, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner would submit that though initially, the transmission lines were to pass through S.Nos. 210/2C, 204/2, the petitioner's father had a doubt with regard to the property, over which the proposed tower lines were to be erected and thereafter, it was found that the lines were to pass through the properties comprised in Survey Nos. 26/1 in Bodiguttapalli Village and S.Nos.207/1 and 207/2 in Periyannur Village, which also belong to the petitioner and not through the properties in S.Nos. 210/2C and 204/2 in Periyannur Village, as proposed earlier. Therefore, according to the learned counsel for the petitioner, the respondents have not applied their mind and they are not sure as to over which property, the tower lines were to be erected. Hence, the learned counsel seeks to quash the impugned order.

4. However, Mr. Kalyanaraman, learned counsel for the 2nd respondent would submit that on joint inspection, it was found that the properties to be used for the proposed project are located in S.No. 26/1 in Bodiguttapalli Village and S.Nos.207/1 and 207/2 in Periyannur Village and therefore, the other properties of the petitioner situated in S.Nos. 210/2C and 204/2 in Periyannur Village, are not going to be used. He would also submit that because of the objection raised by the petitioner, the entire project has come to a standstill.

5. Heard the learned counsel on either side.

6. As rightly contended by the learned counsel for the petitioner, the 2nd respondent has not correctly applied its mind to find out the property over which the tower lines have to be erected. Further, on joint inspection made on 09.04.2016, it was found out that the properties, which are going to be used are located S.No. 26/1 in Bodiguttapalli Village and S.Nos.207/1 and 207/2 in Periyannur Village, which is also stated in paragraph No.19 of the counter affidavit of the 2nd respondent. However, merely because, the officials of the 2nd respondent were negligent in identifying the properties correctly, the said aspect cannot be put against the 2nd respondent to stall a project, necessarily meant for public purpose. Moreover, the 2nd respondent has also approached the District Collector, Dharmapuri, the 1st respondent herein, under the Indian Telegraph Act, 1885, seeking permission to enter into the property.

7. The learned counsel for the petitioner would submit that the petitioner has to be issued with a notice, once again, and he should also be given an opportunity to put forth his objection.

8. Though the said submission is appealing, in any event, the petitioner is going to be given an opportunity by the District Collector while taking a decision with regard to grant of permission and also, with regard to the compensation.

9. Therefore, the 1st respondent, namely, the District Collector, Dharmapuri, with whom the application seeking permission to enter the petitioner's property, filed by the 2nd respondent on 28.04.2016, is pending, shall issue notice to the petitioner and after receiving his objection and after affording an opportunity of hearing to the petitioner, appropriate orders shall be passed in this regard. The 1st respondent shall also, simultaneously, decide about the compensation to be paid to the petitioner. The entire exercise shall be done by the 1st respondent, at the earliest. Till the 1st respondent takes a decision regarding grant of permission to enter into the petitioner's property, the 2nd respondent shall not carry out any work in the petitioner's property. The 2nd respondent shall furnish all the documents filed by it before the 1st respondent to the petitioner.

10. The writ petition is disposed of with the above directions. No costs. Connected W.M.Ps are closed.
nv

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.
2. Chief Manager,
Power Grid NM Transmission Ltd.,
The Government of India Enterprises,
765 KV S/C Dharmapuri - Madhugiri Line,
Construction Area Office,
Power Grid 400/200 KV substation,
26th Km - Kanakapura Road,
Somanahalli P.O.,
Bengaluru - 560 082.

+ 1 cc to Mr.S.Vijayakumar, Advocate SR 33015

+ 1 cc to Mr.Aiyar and Dolia, Advocate SR 32627

+ 1 cc to Govt.Pleader SR 33144

sks (co)
prk17/6

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