

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25391 of 2015 &
M.P.No.1 of 2015

A.D.Arun Praveen

.. Petitioner

Versus

The Superintending Engineer
CEDC/ South
110, KV SS Complex
K.K.Nagar, Chennai 600 078.

.. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondent herein to remove the transformer that was installed in the petitioner's Housing Plot bearing Old S.No115/3, New S.No.115/2A1, Patta No.232, Plot No.1, measuring an extent of 2386.5 sq.ft. situated at Senthil Nagar Extension, Nemilicherry Village, Pallavaram, Tambaram Taluk, South Chennai Registration District, Kancheepuram District.

For Petitioner : Mr.M.Venkadesh

For Respondent : Mr.S.K.Rameshuwar
Standing Counsel

O R D E R

Heard Mr.M.Venkadesh, learned counsel appearing for the petitioner and Mr.S.K.Rameshuwar, learned Standing Counsel appearing for the respondent and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition praying for issuance of a writ of mandamus to direct the respondent to remove the transformer which has been installed in his petitioner's property, which is a housing plot.

3.It is not in dispute that the transformer has been located inside the petitioner's property, for which no permission was obtained from the petitioner nor the Board has taken over that area of the land or purchased the same or the said land was acquired.

4.From the counter affidavit filed by the respondents, it is seen that the transformer was located in the said place during October, 2014 and the land was a vacant land and it appears that that the Welfare Association of the residents of the area had also taken part in the discussion prior to the installation of the transformer after considering the load Centre.

5.The petitioner admittedly did not raise any objection at that point of time, since he was a permanent resident of Cuddalore. Only much after the transformer was erected, the petitioner raised his objection and the matter was taken up for consideration by the Consumer Grievance Redressal Forum (CGRF), which passed the order directing shifting of the Distribution Transformer to another location on payment of necessary shifting charges.

6.The issue would be as to who has to bear the shifting charges. The Board is ready to effect the shifting, provided the petitioner pays the shifting charges. The petitioner states that at no point of time, he can be made liable to pay any amount towards the shifting charges.

7.Admittedly on the date when the transformer was erected, the Board did not make any proper verification as to whether the land was a common area or a reserved site or the site owned by a private party. If that exercise had been undertaken, the problem in question could have been averted. Normally, the transformers are located in the Load Centre and it is not known as to why the assistance of the Welfare Association of the residents of that area was taken into consideration while the locating the transformer during October 2014.

8.The transformer has been in existence in the said location from October 2014 and it has been catering to the nearby houses and small apartment complexes in the locality. In fact, if the petitioner also wants to get electricity supply, he may require to avail the same from the said Distribution Transformer. That apart, the petitioner being an absentee landlord was in default in not raising any objection at the earliest point of time. Therefore, to effect shifting of the transformer as order by CGRF, the petitioner should be put on terms, likewise the Board also should not be entitled to demand the entire shifting charges from the petitioner.

9.Thus, by balancing the interest of both parties, there will be a direction to the respondent to shift the transformer to some other unobjectionable place and 25% of the cost of shifting shall be borne by the petitioner for which, the respondent shall prepare a conservative estimate and serve the same on the petitioner, who shall pay 25% of the amount,

thereafter the Board shall effect the shifting, after bearing other expenses officially. The above direction be complied with by the respondent, within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Superintending Engineer
CEDC/ South
110, KV SS Complex
K.K.Nagar,
Chennai 600 078.

+1cc to Mr.M.Venkadeshnan, Advocate, S.R.No.21976

+1cc to Mr.S.K.Rameshuwar, Advocate, S.R.No.21906

W.P.No.25391 of 2015

bvr(CO)
srg(25/04/2016)

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