

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-07-2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

WRIT PETITION No.30940 of 2015
and
MP No.1 of 2015

- 1.K.Sellamuthu Gounder
- 2.C.Balasuubramani
- 3.N.Palanisamy Gounder
- 4.P.Samiappan
- 5.R.Muthu Krishnan
- 6.V.Kulandaivel
- 7.Arunagiri
- 8.S.Valusamy
- 9.K.Dineshkumar
- 10.P.Kulandaisamy Gounder
- 11.V.Thulasimani
- 12.P.Nataraj
- 13.Saraswathi
- 14.Nachimuthu

... Petitioners

Vs.

- 1.The District Collector-cum-
District Magistrate,
Erode District,
Erode.

- 2.The Chief Engineer,
Power Grid Corporation of India Limited,
17/4G, Vivekanandar Street,
Gandhi Nagar,
Naciyanoor Road,
Erode.

- 3.The Superintending Engineer,
Tamil Nadu Generation of Electricity
Distribution Company (TANGEDCO),
Tatabad,
Coimbatore 641 012.

- 4.The Chief Engineer,
Erode Electricity Distribution Circle,
Tamil Nadu Generation of Electricity
Distribution Company (TANGEDCO),
EVN Road, Erode-9.

5.The Chairman,
Tamil Nadu Electricity Board,
TANGEDCO,
144, Anna Salai,
Chennai-600 002.

.. Respondents

Writ Petition is filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to implement the proceedings of the third respondent in Lr.No.Mo.Po/Po.Ka.Va/Kovai/Say.Po/Pothu/Ko.Manu/Aa.No.2638, dated 15.7.2015 and thereby adopt the existing alternative way in the Government land along Noyyal River to install the Electricity Towers No.34 to 47 to reach the proposed Electric Sub Station at Veppampalayam, Erode District without insisting the three conditions contained therein to be accepted by the petitioners.

For Petitioner : Dr.R.Gouri

For Respondents : Mr.S.K.Raameshuwar,
Standing Counsel for TNEB.

O R D E R

The petitioners are the agriculture land owners, whose agricultural lands are to be affected because of the laying of 110 KV electricity line across their property for the purpose of establishing new Electric Sub Station at Veppampalayam Village, Erode District. Challenging the order passed by the third respondent, by which the petitioners' proposal for alternate alignment was considered and accepted with certain conditions stating that the conditions are unwarranted, the petitioners have filed this writ petition before this Court.

2. The petitioners are owners of their agricultural lands comprised in S.F.Nos.82/2, 87/3, 84/3E4, 82/9, 83/6, 110/1, 110/2, 160, 171/4, 173/2, 178/4, 198/2, 186/6, 187/7 and 189 situated at Anjur Village, within the Sivagiri Sub Registration and Registration District of Erode. The respondents have proposed to establish new Electric Sub Station with 230 KV capacity at Veppampalayam Village, Erode District and the Department has proposed to draw 110 KV electricity line from the already existing 110 KV Erode-Pugalur electricity line by Ramanathapuram-Anjur Village to reach the proposed Electric Sub Station at Veppampalayam Village, Erode District. For that purpose, the respondent-Department proposed to install 100 electricity towers via Ramanathapuram-Anjur Village from the already existing 110 KV Erode-Pugalur electricity line.

3. The petitioners are carrying on their agricultural activities in their lands and the proposed electric lines are sought to be drawn across the petitioners' agricultural lands and therefore, their agricultural activities will be affected

and more than 3000 grown up trees will also be affected. Therefore, the petitioners gave an alternative way to draw the said line in the existing Government line along the Noyyal River. By adopting such alternate way, the distance also will be less and the expenditure to be incurred will also be less.

4. The alternate proposal was given by way of representation dated 5.1.2009 to install the electricity towers No.34 to 47 on the Banks of the Noyyal River. The second respondent by proceedings dated 15.7.2015, accepted the proposal, however, imposed three conditions as a precedent for accepting the alternate proposal. Aggrieved with regard to the said three conditions only, the petitioners have come up before this Court.

5. Heard Dr.R.Gouri, learned counsel appearing for the petitioners, Mr.R.M.Muthukumar, learned Government Advocate appearing for the first respondent and Mr.S.K.Raameshuwar, learned Standing Counsel appearing for the Tamil Nadu Electricity Board.

6. It is stated by the third respondent that before the commencement of tower line work, a detailed route survey/study has been conducted. Based on the Survey only, the route alignment was drawn. If an alternate route, as suggested by the petitioners, has to be accepted, it will incur extra expenditure, apart from getting permissions from the Revenue Department as well as the Public Works Department and a patta land will be affected because of the alternate route. Based on the said counter, Mr.Raameshuwar, learned Standing Counsel appearing for Tamil Nadu Electricity Board, would submit that the acceptance of the proposal by the petitioners is based on the abovesaid three conditions only and the conditions are reasonable and therefore he seeks dismissal of the writ petition.

7. A perusal of the record would show that the original route proposed by the Department is about 3,962 meters which crosses the petitioners' property affecting their agricultural lands. Whereas the alternate alignment proposed by the petitioners covers only about 3,190 mts only and it will not affect any agricultural land. The distance saved by the alternate line as proposed by the petitioners is 772 mts. When 772 mts. is saved by alternate route, the respondent-Department is bound to consider the same. By reducing the distance of 772 mts., the erection of two towers can be avoided and thereby avoiding the expenditure in this regard also.

8. One important factor is that the alternate proposal runs only on the Banks of the Noyyal River, which is the public property and it will not cause any disturbance to the agricultural land. When nobody's right is affected by alternate proposal and when many agricultural lands are to be affected by the original route proposed by the respondent-Department, it is

always appropriate to go by the route which does not affect the agricultural lands. Moreover, it is more economical also.

9. It is not as if the respondents have already started the erection work. The work is yet to commence. Therefore, no prejudice is caused to the respondent. In paragraph 8 of the counter affidavit, it has been stated that extra cost has to be incurred by the respondent-Department because of the erection of towers on the Banks of the Noyyal River due to the provision of angle points and additional tower weight to withstand from flash floods. When about 772 mts., is going to be saved and the money to be utilised for the same, can be utilised in this regard by the respondent-Department. Therefore, it is too late for the respondent-Department to contend that additional expenditure would be incurred because of the alternate route, whereas by the alternate route of 772 mts., is going to be saved and the erection of two towers can be avoided, thereby saving much money.

10. Regarding getting permission from Public Works Department and the Revenue Department, wherever it is necessary, it is the bounden duty of the respondent-Department to get the permission and the respondent-Department cannot expect the private citizens to approach the authorities to get the approval. Therefore, the respondent-Department alone has to approach the authorities and get the necessary permission.

11. It is brought to the notice of the Court by Dr.R.Gouri, learned counsel appearing for the petitioners that no patta land is to be affected and therefore, there is no necessity to get no objection from the land owner, whose land is going to be affected by the alternate route. Even by alternate route, one property is to be affected, it is the duty of the respondent-Department to get necessary permission, under Section 16 of the Indian Telegraphic Act, to enter upon the property, from the District Collector. When the respondents have got powers under the statute, they cannot expect the petitioners to get no objection from the persons whose land is to be affected.

12. Even if one person's land is to be affected because of the alternate alignment, the respondents have to comparatively study the number of persons whose properties are to be affected because of the route proposed by the respondent-Department and the number of persons whose lands are affected by the alignment and decide about the alignment taking the lesser number of persons who are to be affected. In that angle also, the petitioners' case has to be accepted and therefore the conditions proposed by the respondent-Department are unnecessary. Hence the said conditions are quashed and the respondents have to act as per the impugned order dated 15.7.2015 the alternate route proposed by the petitioners and accepted in and to lay the towers as per the alternate route without any conditions.

13. The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn.

To

- 1.The District Collector-cum-District Magistrate,
Erode District,
Erode.
- 2.The Chief Engineer,
Power Grid Corporation of India Limited,
17/4G, Vivekanandar Street,
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EVN Road,
Erode-9.
- 5.The Chairman,
Tamil Nadu Electricity Board,
TANGEDCO,
144, Anna Salai,
Chennai-600 002.

- 1 cc to Mr.R.Gowri, Advocate, sr.41179
1 cc to Mr.S.K.Rameshwar, Advocate, sr.30940

WP No.30940 of 2015

rsy co
kra 03.08.2016