

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.31314 of 2012

P. Paul Thangam

...Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
rep. by its Chairman,
NPKRR Maaligai,
Electricity Avenue,
144, Anna Salai, Chennai - 600002.
2. The Superintending Engineer,
The Tamil Nadu Electricity Board,
Circle I & II, A - 10,
TVK Industrial Estate,
Guindy, Chennai - 600032.
3. The Assistant Engineer,
TLC/TNEB,
230/110 K.V. Sub Station,
Code : 6602, Taramani,
Chennai - 600 113.
4. The District Collector,
Kancheepuram District, Kancheepuram.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the fourth respondent in his proceedings, in Rc.24919/2012/M1, dated 16.11.2012, and to quash the same as null and void, and consequently, to direct the second and third respondents to dismantle and remove the tower erected 40 feet away towards east from the existing location at location - 4, erected in front of the petitioner's property and to execute the deviation work in accordance with the sanction order passed by the Chief Engineer, Chennai South Region, in sanction No.CE/D/CNR/EET/AET2/F.DCW.est/10-11/D4402/10, dated 1.3.2011, without changing the existing approved alignment of 110 kv

Kadaperi Spur Line I & II of SP Koil -Kadaperi Feeder I and II so as not to pass through petitioner's patta land, measuring to 30 cents comprised in S.No.12/1A2, of Erumaiyur Village, Sriperumbatur Taluk, Kancheepuram District.

(Prayer amended as per order, dated 11.06.2014, made in M.P.No.1 of 2013 of this W.P)

For Petitioner :Mr.N.Vanaraj

For Respondents 1 to 3 :Mr.S.K.Rameshwar
Standing Counsel

For Respondent -4 :Mr.R.Rajeswaran
Special Government Pleader

O R D E R

The petitioner has filed this Writ Petition, praying for issuance of Writ of Certiorarified Mandamus, to quash the proceedings passed by the District Collector/fourth respondent, Kancheevaram District, dated 16.11.2012, and consequently, to direct the respondents 2 and 3 to remove the Tower, which has been erected in a particular location, as the electrical lines are passing in front of the petitioner's property.

2. Heard the learned counsel appearing for the parties, and perused the materials placed on record.

3. This matter pertains to the drawal of electrical lines for installation of 110 KV transmission tower. It is seen that the Tamil Nadu Road Development Corporation (TNRDC), an Organization of this State, took up a project for formation of Chennai Outer Ring Road from Vandalur to Nemilicheri, near Pattabiram, for about 30 km under phase I, by acquiring certain extent of lands. In the said route, several Extra High Tension lines (EHT lines) were found to be crossing the roads at various locations. As per the standards of Tamil Nadu Transmission Corporation Ltd., (TANTRANSCO), a minimum ground clearance has to be maintained to ensure safety. Since EHT lines, which were drawn before the initiation of the said project, were crossing the roads with inadequate ground clearance, those lines were deviated by erecting additional towers with extra height, according to technical feasibility, and the expenditure incurred towards the said deviation work was remitted by TNRDC. The lines, which were crossing the locations near the Villages, such as Palanthantalam, Varadarajapuram, were deviated at some corridor, or to adjacent side, by satisfying all technical requirements. It is further seen that, at Erumaiyur Village,

Singaperumal Koil, Kadaperi, 110 KV DC lines were crossing the outer ring road, and since the ground clearance in the said area was found inadequate, the height of the electrical lines was raised by 3.0 meters, by installing new towers on either side of the outer ring road, and if any break down work, or maintenance works needs to be attended, 'Line Clear' will be permitted from Load Despatch Centre, Chennai, for a period, not more than two days, and only during holidays, such line clear works would be carried out. Since 110 KV DC lines in the said Singaperumal Koil -Kadaperi is the main feeder to the Railway Track substation at Tambaram, to carry-out the deviation work, various locations for erection of new towers were fixed on either side of the outer right road, adjacent to the existing corridor, so that the new towers can be erected, without disturbing the existing EHT lines and the line stringing, and the line clear work energizing the new lines after dismantling the old lines can be completed within the period of two days. Based on the abovesaid schedule, the foundation works for erection of new towers were carried out during the second week of June, 2012 and the line clear works were carried out on 19.08.2012 and 20.08.2012, and as on date, towers have been energized, and they are in operation for three years.

4. The petitioner had earlier approached this Court by filing a Writ Petition, being W.P.No.22291 of 2012, praying for issuance of Writ of Mandamus, forbearing the respondents, who are respondents 1 to 3 herein from carrying out aforesaid deviation work at Erumaiyur Village, as the existing high tension electricity lines were passing through the petitioner's property, thereby, affecting his property. It is pertinent to note here that, when the said Writ Petition was entertained, no interim orders, benefiting the petitioner was granted, and later, it was disposed of, by order, dated 21.09.2012, with a direction to the District Collector, Kancheepuram, (who was not party respondent therein) to deal with the matter after notice to the parties concerned. Accordingly, the matter was referred before the District Collector, Kancheepuram, at the instance of the Superintending Engineer, TNEB, and the petitioner filed his objection before the District Collector. However, by the proceedings, dated 16.11.2012, the District Collector has rejected the petitioner's objection. Challenging the same, the petitioner is before this Court, by way of filing this Writ Petition.

5. The learned counsel appearing for the petitioner assailed the impugned proceedings by raising three contentions :-

- i) Firstly by contending that electrical lines were already in existence, and they are not newly

drawn, and since deviation was done contrary to the sanction order passed by the Chief Engineer, Chennai South Region, the petitioner's property got affected.

ii) Secondly, it is contended that the Superintending Engineer has no jurisdiction to effect such deviation work. In this regard, the learned counsel placed reliance on the decision of this Court in the case of (Shri Sathya Sai Warehousing and logistics Park Vs. The Chairman, TNEB) reported in (2012) 2 Current Writ Cases 62.

iii) Thirdly is by referring to the proceedings of the Chief Engineer, Chennai South Region, dated 01.03.2011, wherein, it was stated that the deviation is in between location Nos.3 and 4, near Erumaiyur Village, whereas, the deviation work has been made in between location Nos. 3, 4 and 5.

6. With regard to the first contention raised by the learned counsel for the petitioner, the answer lies in the counter affidavit, filed by the respondent-Board, which has been referred to in the preceding para, and it is evident that Technical Experts have taken decision with a view to form outer ring road, and when the said project was not put to challenge by the petitioner, this Court does not proposes to act as Superior Authority over the Technical Experts' view in the absence of any mala fide attributed to their action. Therefore, the first contention raised by the petitioner is liable to be dismissed.

7. As regards the second contention that deviation has been done by the Superintending Engineer, and it is without jurisdiction, it is seen from the counter affidavit that deviation has been approved by Tamil Nadu Generation and Distribution Corporation (TANGEDCO). Therefore, the second contention too, does not merit acceptance.

8. Insofar as third and last contention is concerned, viz., the contention that deviation was approved by the Chief Engineer, TANGEDCO, only in between location Nos. 3 and 4, and not in between location Nos. 3, 4 and 5, the said contention is nothing but a subsidiary to the second contention. What was approved by TANGEDCO was deviation in between location Nos. 3 to 5, and not 3 and 4, as contended by the petitioner, and to hit the nail on the head, this Court perused the Rough sketches filed at page Nos.59 and 60 of the typed-set of papers, filed in support of Writ Petition No.22291 of 2012, and on a careful look of the same, this Court is convinced to arrive at a conclusion that the petitioner cannot have any grievance with regard to the

erection of new towers at location Nos.3 & 5, as the new towers are not affecting his property. Therefore, the petitioner's grievance is with regard to the relocation of tower in location No. 4. This is because of the electrical line has been drawn in a parabolic curve, and taken to location No.3, which is affecting his land. In this connection, the deviation proposed by the Chief Engineer, Chennai South Region, in his proceedings dated 01.03.2011, which has been approved by TANGEDCO is relevant to be looked into, because, in the said proceedings, it is stated that the deviation is in between location Nos.3 and 4, and because of the relocation of the tower in location No. 4, new tower had to be erected in between the location Nos.1, 4 and 3. Therefore, the Chief Engineer's proceedings is justified. Since the issue would be only in between location Nos.3 and 4, as originally envisaged and deviation proposed, the erection of tower at location No.5 has no consequence. Therefore, interpretation, which the petitioner seeks to make is hyper-technical interpretation, and does not merit acceptance. Accordingly, the third contention too is rejected.

9. In the light of the above facts, what has been proposed by the respondent-Board is to relocate a tower at location No.4 and not to disturb the Tower in location No.3, and erection of two more towers in between the location Nos. 3 and 4. These issues have been threadbare analyzed by the District Collector and the impugned order has been passed. In the absence of any perversity in the order passed by the District Collector, this Court is not inclined to interfere with the same.

10. In the result, the Writ Petition fails, and it is dismissed. However, the dismissal of this Writ Petition will not put an embargo on the petitioner from making a claim for compensation in accordance with law, if so advised. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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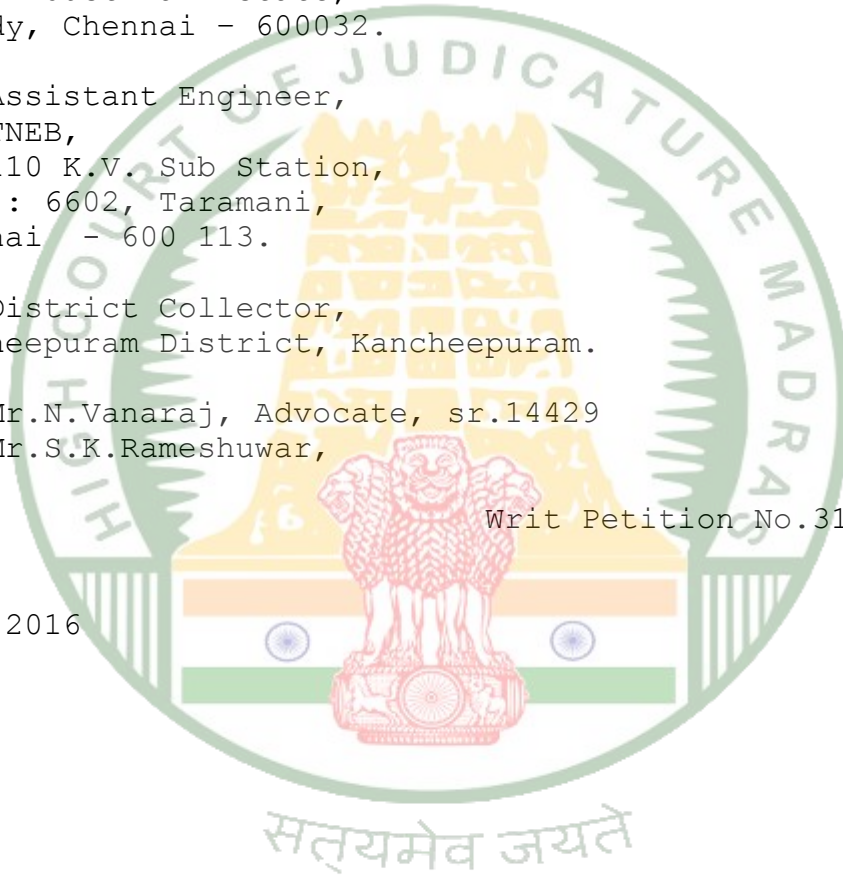
To

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Kancheepuram District, Kancheepuram.

+1 cc to Mr.N.Vanaraj, Advocate, sr.14429
+1 cc to Mr.S.K.Rameshuwar,

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