

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.9016 of 2015

and

M.P.No.1 of 2015

S.Devaraj

.. Petitioner

vs

1. The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai.

2. The District Collector
Chennai District
Chennai.

[R2 given up vide court order dated
30.03.2015 by MDJ in W.P.No.9016 of 2015]

3. The Assistant Engineer
O & M VOC Nagar
TANGEDCO/CEDC/NORTH
Chennai 600 081.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying this Court for the issue of a Writ of mandamus to direct the third respondent to not to erect high tension electricity transformer in front of the petitioner's house, i.e., very close to the petitioner's house situated at 29/85, Ammani Amman Garden, 4th Lane, Tondiarpet, Chennai 600 081 and also not to install overhead electricity cables touching the petitioner's house and not to disturb the peaceful life and liberty of the petitioner and his family members.

For Petitioner ...Mr.R.Prasadh

For Respondents ...Mr.P.R.Dhilip Kumar
Standing Counsel for RR1 and 3
R2- Given up.

ORDER

This is a classic case, where the party has made an attempt to abuse and misuse the process of Court and to stall the erection of high tension electricity transformer, which is made for public distribution and for public convenience. If such proceedings are allowed to be entertained, it will go against the public interest. Apart from this, it will become a platform for mockery and anybody will come up with such a false and fake claim to achieve their selfish gain.

2. The petitioner has approached this Court for the issuance of a writ of mandamus to direct the third respondent not to erect high tension electricity transformer in front of the petitioner's house, i.e., very close to the petitioner's house situated at 29/85, Ammani Amman Garden, 4th Lane, Tondiarpet, Chennai 600 081 and also not to install overhead electricity cables touching the petitioner's house and not to disturb the peaceful life and liberty of the petitioner and his family members.

3. According to the petitioner, he is the owner of the property with land and building located at No.29/85 Ammani Amman Garden, 4th Lane, Tondiarpet, Chennai 600 081. The third respondent in the year 2014 proposed to erect High Tension Electricity Transformer very close to the petitioner's property on 18.06.2014, which was objected to by the petitioner. Thereafter, the petitioner sent a representation on 19.06.2014 to the second respondent as well as to the first respondent and also to the local MLA on 24.06.2014.

4. Inasmuch as the third respondent attempted to erect the said High Tension Electricity Transformer, W.P.No.19146 of 2014 was filed by the petitioner and the said writ petition was dismissed on 19.06.2014. After dismissal of the said writ petition, taking advantage of the order, the third respondent again attempted to erect the High Tension Electricity Transformer very close to the petitioner's property and erected iron pillar very near to his house. On objection, the third respondent stopped the work. In such circumstances, the petitioner has approached this Court.

5. The learned counsel for the petitioner would submit that he has got a very small house and the third respondent is trying to erect the transformer abetting his property and that too, where the entrance is located. He has also enclosed copies of the photographs of the building, which is annexed in Page No.35 of the typed set of papers.

6. Per contra, Mr.P.R.Dhilip Kumar, learned Standing Counsel appearing on behalf of the respondent-Tamil Nadu Electricity Board would submit that the entrance, which have been shown in the photographs annexed to the typed set of papers is only a new entrance, which has been made with a view to prevent the respondents from putting up any High Tension Electricity Transformer as if, the petitioner's property is going to be affected. On his part, he also produced copies of the photographs of the building.

7. Heard both sides.

8. On a perusal of the photographs filed by the petitioner as well as the learned Standing Counsel appearing on behalf of the Tamil Nadu Electricity Board would categorically make it clear that the entrance to the petitioner's property is newly made and the pavement is new. Moreover, there cannot be any entrance in the backside of the property because the petitioner do not have any property or road to have ingress and egress in that place. It is also clear that the entrance has been made deliberately by the petitioner with a mala fide intention to obstruct the function of the Electricity Board for the benefit of the public. It is also represented by the learned Standing counsel for the respondents that the new entrance, which has been shown in the photographs and relied upon by the petitioner is on the other side of the original entrance to the petitioner's property.

9. This Court also accepts the argument of the learned Standing Counsel for the respondent as the photographs shown by him would establish that the entrance has been made by the petitioner deliberately to stall the work to be commenced by the third respondent in erecting the High Tension Electricity Transformer.

10. This kind of action by the citizen should not be encouraged, otherwise Courts will be flooded with cases like this, misleading the Court in an attempt to get unreasonable orders, which will go against the public. Courts are not meant for, to be misused, to attain the selfish gains of the citizens.

11. A bona fide litigation alone has to reach this Court for genuine reasons and where really the rights of the citizens are violated. Any false claim or frivolous claim should be dealt with an iron hand. This attitude of the petitioner would also establish the fact that he has got no respect for the Court and he is under the impression that the Courts can be given wrong facts and by suppressing the real facts, obtain a legal order to achieve an illegal object. Time and again, this Court has been reiterating that Courts are meant only for genuine

litigations with a bona fide claim and not for unscrupulous elements as stated by the Hon'ble Apex Court in the case of Rakesh Kumar Goel and others vs. U.P.State Industrial Development Corporation and others reported in 2010 AIR SCW 4050, where in it has been held as follows:

"41. But this case certainly calls for exemplary costs to the appellants. We wish to make it absolutely clear that this Court is not for manipulators, speculators and land grabbers. The litigation in this Court is not like buying a lottery ticket that, if luck favours, might bring a windfall (even though illegitimate) but would cost no more than the expenses of litigation. That is not the way of this Court. We, accordingly, impose cost of Rs.2 lakhs on each of the two appellants. The amount of cost must be paid to the Supreme Court Legal Aid Committee within 12 weeks from today. In case receipts showing payment of the cost is not filed within the time as directed, the amounts of cost shall be realised from the appellants as fine under the provisions of the Code of Criminal Procedure".

12. This case is not an exceptional case to that one. Therefore, while dismissing the petitioner's claim, this Court awards a sum of Rs.5,000/- [Rupees five thousand only] as costs, to be paid by the petitioner to the Adyar Cancer Institute, Chennai within a period of two weeks from the date of receipt of a copy of this order, failing which, the Tahsildar, Tondiarpet shall recover the money by taking appropriate steps including attachment or sale of the assets of the petitioner and file a report before this Court within a period of two weeks, thereafter.

13. When this Court was not inclined to grant the order as sought for by the petitioner, the learned counsel for the petitioner sought leave of the Court to withdraw the writ petition. However, this Court is not inclined to accede to the request made by the petitioner, but inclined to impose the cost, as a wrong message would be sent to the society that anybody can make an attempt to mislead and by simply making an apology they can escape from the clutches of the Court, if the petitioner is permitted to withdraw the case.

14. The learned counsel for the petitioner would submit that the petitioner is from a poor background and he may not be knowing the consequences. The law knows no poor or rich and what is material is whether this Court is being taken for a ride.

15. With the above observation, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman
Tamil Nadu Electricity Board
No.800, Anna Salai
Chennai.
2. The Assistant Engineer
O & M VOC Nagar
TANGEDCO/CEDC/NORTH
Chennai 600 081.
3. The Cancer Institute,
Adyar, Chennai.
4. The Tahsildar,
Tondiarpet Circle,
Chennai.

Copy to

The Section Officer,
Writ Section,
High Court, Madras.

(for getting the report from the Tahsildar,
Tondiarpet, Chennai,
if costs is not paid by the petitioner,
as directed by this Court)

+1cc to Mr.P.R.Dhilipkumar, Advocate SR.34926

W.P.No.9016 of 2015

nr[co]
20/09/2016