

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.07.2016

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The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P.No.25411 of 2016
and W.M.P.No.21732 of 2016

K.Karuppa Gounder

[Petitioner]

Vs

- 1 The District Collector
District Collector Office Tiruppur
Palladam Road Tiruppur.
- 2 Tamil Nadu Generation and
Distribution Corporation Ltd
Rep. by its Chairman 10th Floor
NPKRR Maaligai No.144
Anna Salai Chennai-2.
- 3 The Superintending Engineer
Tiruppur Electricity Distribution Circle
Tamil Nadu Generation and Distribution
Corporation Ltd 19A 19B Jothi Nagar
Perumanallur Road Tiruppur
- 4 The Superintending Engineer
Tamil Nadu Transmission Corporations
General Construction Circle/ Coimbatore 182
Tatabad Coimbatore-12 [Respondents]]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus forbearing the 3rd and 4th respondents their men officers representatives from in any manner erecting 250 KVA HT Line in the petitioner agriculture land bearing S.F. No.250/2 Chokanoor Village Avinasi Taluk Tiruppur District or draw High Voltage Electrical Lines over them without following the provisions of the Electricity Act 2003 and the Indian Telegraphic Act 1885.

For Petitioner :Mr.D.R.Arunkumar

For Respondents: Mrs.P.Kavitha, GA (R1)
Mr.S.K.Rameshwar (R2-4)

ORDER

Ms.P.Kavitha, learned Government Advocate, takes notice on behalf of the 1st respondent and Mr.S.K.Rameshwar, learned Standing Counsel takes notice on behalf of the respondents 2 to 4 and with their consent, the main writ petition itself is taken up for final disposal.

2. This writ petition has been filed for the issuance of a writ of mandamus forbearing the 3rd and 4th respondents, from in any manner erecting 250 KVA HT Line in the petitioner's agriculture land bearing S.F. No.250/2, Chokanoor Village, Avinasi Taluk, Tiruppur District or draw High Voltage Electrical Lines over them without following the provisions of the Electricity Act, 2003 and the Indian Telegraphic Act 1885.

3. The petitioner is the owner of the property comprised in Survey No.250/2, Chokanoor Village, Avinasi Taluk, Tiruppur District, measuring an extent of 4 acres. In June 2016, the officials from the office of the 2nd respondent made an attempt to install 230 KVA High Tension Transmission Tower in his land. Therefore, the petitioner gave a complaint to the District Collector on 20.06.2016 and also to the 3rd respondent. However, so far, no reply has been received from the respondents. In the meanwhile, respondents 2 to 4 are making attempts to enter upon the property and to erect High Tension Transmission Tower in the petitioner's property. Therefore, the petitioner has come before this Court by way of this writ petition.

4. Heard Mr.D.R.Arunkumar, learned counsel for the petitioner, Ms.P.Kavitha, learned Government Advocate appearing for the 1st respondent and Mr.S.K.Rameshwar, learned Standing Counsel appearing for respondents 2 to 4.

5. As per Section 16 of the Indian Telegraphic Act, 1885, the respondents 2 to 4 are required to get permission to enter upon the property of the individual for erecting High Tension Wires or any other work. As far as the case in hand is concerned, admittedly, so far no permission has been obtained by the respondents 2 to 4.

6. Therefore, this Court is of the view that the respondents 2 to 4 have to approach the 1st respondent by filing appropriate petition seeking permission to erect transmission tower. In the meanwhile, the petitioner shall also file a petition before the 1st respondent claiming compensation.

7. At this juncture, it is appropriate to state that the District Collector has to decide about the compensation as per

the guidelines notified by the Government of India, by order dated 15.10.2015 and the operative portion of the guidelines is extracted hereunder:

"No. 3/7/2015 - Trans
Government of India
Ministry of Power
Shram Shakti Bhawan
Rafi Marg, New Delhi - 110 001.

Dated: 15.10.2015

To

1. Chief Secretaries/Administrators of all the States/UTs
(As per list attached)
2. Chairperson, CEA, New Delhi, with th request to disseminate the above guidelines to all the stateholders
3. CMD, PGCIL, Gurgaon.
4. CEO, POSOCO, New Delhi.
5. Secretary, CERC, New Delhi.
6. CMD of State Power Utilities/SEBs.

Subject: Guidelines for payment of compensation towards damages in regard to Right of Way for Transmission lines.

During the Power Ministers' Conference held on April, 9 -10, 2015, at Guwahati with States/UTs, it has, inter alia, been decided to constitute a Committee under the chairship of Special Secretary, Ministry of power to analyze the issues related Right of Way for laying of transmission lines in the country and to suggest a uniform methodology for payment of compensation on this count. Subsequently, this Ministry had constituted a Committee with representatives from various State Governmets and others. The Committee held several meetings to obtain the views of the State Governments on the issue and submitted its report along with the recommendations (copy of the Report is at Annex-1).

2. The recommendations made by the Committee are hereby formulated in the form of following guidelines for determining the compensation towards damages as stipulated in sections 67 and 68 of the Electricity Act, 2003 read with Sections 10 and 16 of Indian Telegraph Act, 1885, which will be in addition to the compensation towards normal crop and tree damages. This amount will be payable only for transmission lines supported by a tower base of 66

KV and above, and not for sub transmission and distribution lines below 66 KV:-

(i) Compensation @ 85% of land value as determined by District Magistrate or any other authority based on Circle rate/Guideline Value/STamp Act rates for tower base area (between four legs) impacted severely due to installation of tower/pylone structure.

(ii) Compensation towards diminution of land value in the width of right of way (ROW) Corridor due to laying of transmission line and imposing certain restriction would be decided by the States as per categorization/type of land in different places of States, subject to a maximum of 15% of land vlue as determined based on circle rate/guidelines value/stamp Act rates.

(iii) In areas, where the landowner/owners have been offered/accepted alternate mode of compensation by concerned corporation/ Municipality under Transfer Development Rights (TDR) Policy of State, the licensee/Utility shall deposit compensation amount as per (i) and (ii) above with the concerned Corporation/Municipality / Local Body or the State Government.

(iv) For this purpose, the width of ROW corridor shall not be more than that prescribed in the table at Annex-2 and shall not be less than the width directly below the conductors.

3. Necessary action may kindly be taken accordingly. These guidelines may not only acilitate in early resolution of ROW issues and also facilitate completion of the vital transmission lines through active support of State/UT Administration.

4. All the States/UTs etc.,are requested to take suitable decision regarding adoption of the guidelines considering that acquisition of land is a State subject."

8. In view of the above, the petitioner is granted two weeks' time from the date of receipt of a copy of this order to file statement of claim. Similarly, the respondents 2 to 4 are also given two weeks' time from the date of receipt of a copy of this order to file a petition seeking permission for erecting the High Tension Transmission Tower. On such petitions being filed, the 1st respondent shall issue notice to both the parties, within a period of two weeks from the date of receipt of the such petitions and after getting reply, the 1st respondent shall decide both the issues simultaneously and pass appropriate orders on merits and in accordance with law, within a period of 4 weeks thereafter. It is made clear that till permission is obtained from the 1st respondent for erecting High Tension Transmission Tower, the respondents 2 to 4 shall not enter upon the petitioner's property.

The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 The District Collector
District Collector Office Tiruppur
Palladam Road Tiruppur.
 - 2 The Chairman, Tamil Nadu Generation and
Distribution Corporation Ltd
10th Floor NPKRR Maaligai No.144
Anna Salai Chennai-2.
 - 3 The Superintending Engineer
Tiruppur Electricity Distribution Circle
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Perumanallur Road Tiruppur
 - 4 The Superintending Engineer
Tamil Nadu Transmission Corporations
General Construction Circle/ Coimbatore 182
Tatabad Coimbatore-12
- 1 cc to Mr.D.R.Arunkumar, Advocate, sr.41648
1 cc to Mr.S.K.Raameshwar, Advocate, sr.41870

W.P.No.25411 of 2016

gj co

kra 04.08.2016

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