

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-08-2016

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.28450 of 2016
and
WMP No.24558 of 2016

EVP Estates and Properties Development Ltd
Rep. by its Chairman
Mr.E.V.Perumalsamy Reddy
23 Sir Thiyagaraya Road
Pondy Bazaar, T.Nagar, Chennai-17. Petitioner

Vs.

1. The Chairman
Tamil Nadu Generation and Distribution
Corporation, Anna Salai,
Chennai-2.
2. The Assistant Engineer
Tamil Nadu Generation and Distribution
Corporation, Korattur,
Chennai-80.
3. The Superintending Engineer
General Construction Circle I,
TANTRANSO,
A 10, Thiru vi ka Industrial Estate,
Guindy, Chennai-32.

(R3 Suo Motu impleaded
as per order dated 16.08.2016) Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of mandamus, forbearing the
respondents from putting up any kind of temporary, permanent,
structure or erecting any high tension electric tower in the
area abutting the land in S.Nos.34/1, 34/2 , 33/1, measuring an
extent of 2 Acres and 45 cents in Karunakaracherry Village,
Poonamallee Panchayat, Poonamallee Taluk, Thiruvallur District
belonging to the petitioner herein.

For Petitioner : Mr.S.R.Rajagopal

For Respondents : Mr.Abdul Saleem

ORDER

The petitioner is the owner of the property comprised in Survey Nos.34/1, 34/2, 33/1, measuring an extent of 2 Acres and 45 cents situated at Karunakaracherry Village, Poonamallee Panchayat, Poonamallee Taluk, Thiruvallur District and the nature of the said property is agricultural. The respondents proposed to erect high tension towers adjacent to the said property and in order to effect erection, they have dug up the place to lay the foundation. The towers which are sought to be erected are abutting the South Eastern side of the property. Therefore, a representation was given by the petitioner on 06.08.2016 to restrain the site authorities from putting up any kind of temporary, permanent structure or erecting any High Tension Tower/pole abutting his property. However, so far, no reply has been received from the respondents. In the meanwhile, the respondents are making attempts to enter upon the property and to erect High Tension Transmission Tower abutting the petitioner's property. Therefore, the petitioner has come before this Court by way of this writ petition.

2. Heard Mr.S.Rajagopal, learned counsel for the petitioner and Mr.Abdul Saleem, learned Standing Counsel appearing for respondents.

3. As per Section 16 of the Indian Telegraphic Act, 1885, the respondents 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.

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

5. It is represented by Mr.Abdul Saleem, learned Standing Counsel for the respondent Board that the Superintending Engineer, General Construction Circle I, TANTRANSO, A 10, Thiru vi ka Industrial Estate, Guindy, Chennai-32 is

the competent authority to approach the District Collector seeking permission to enter upon the property of the individual for erecting High Tension Wires or any other work and the said authority has not been impleaded as party respondent in this writ petition. Hence,

The Superintending Engineer,
General Construction Circle I,
TANTRANSCO,
A 10, Thiru vi ka Industrial Estate,
Guindy, Chennai-32

is suo-motu impleaded as the 3rd respondent in this writ petition.

6. 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 Governments 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 value 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 facilitate 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."

7. 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 3rd respondent is 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 District Collector concerned 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 District Collector concerned 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 District Collector for erecting High Tension Transmission Tower, the respondents 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(CS VI)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

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To

1. The Chairman
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Chennai-2.
2. The Assistant Engineer
Tamil Nadu Generation and Distribution
Corporation, Korattur,
Chennai-80.

3. The Superintending Engineer
General Construction Circle I,
TANTRANSCO,
A 10, Thiru vi ka Industrial Estate,
Guindy, Chennai-32.

4. The District Collector,
Thiruvallur District,
Thiruvallur.

+lcc to Mr.Abdul Saleem, Advocate, S.R.No.46747
+lcc to Mr.S.R.Rajagopal, Advocate, S.R.No.47145

W.P.No.28450 of 2016
and
WMP No.24558 of 2016

MP1 (CO)
CA(14/09/2016)



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