

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2016

CORAM

The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P.Nos.31284 and 31286 of 2016
and
W.M.P.Nos.27149 and 27151 of 2016

N.Manigandan ... Petitioner in W.P.No.31284/16

D.Janagi Raman ... Petitioner in W.P.No.31286/16

Vs

1. The Director
The Directorate of Tamilnadu
Electricity Board,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai 32.
2. The Superintending Engineer
Tamil Nadu Electricity Board,
General Construction Circle-I,
Guindy, Chennai
(Substituted as per order dt.8.9.16)
3. The Assistant Engineer
Tamil Nadu Electricity Board (Vellanoor)
Avadi, Chennai.
4. The District Collector,
Thiruvallur District
(R4 suo-motu impleaded
as per order dated 08.09.2016)

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus forbearing the respondents their men, agent and servants or any other persons claiming on their behalf from erecting the High Tension Electricity Tower in the land belongs to the petitioners comprised in Survey No.66/1, 67/1, measuring an extent of 2400 sq.ft. and Survey No.65/2D2A & Patta No.5584 measuring an extent of 2400 sq.ft. respectively situate in Vellanoor Village, Ambattur Taluk, Thiruvallur District.

For Petitioners : Mr.Thirumoorthy for
M/s.Silambu Selvan

For Respondents : Mr.S.K.Rameshuwar (R1-R3)
Mr.T.M.Pappiah,
Special Government Pleader for R4

ORDER

Since the respondent Electricity Board is required to get permission to enter upon the property of an individual for erecting High Tension Wires, towers or to draw cables, as per Section 16 of the Indian Telegraph Act, 1885, the District Collector is a necessary party. Therefore, The District Collector Thiruvallur District is suo-motu impleaded as the 4th respondent in these writ petitions.

2. Similarly, the Superintending Engineer, General Construction Circle-I, Tamil Nadu Electricity Board, Guindy, Chennai is the proper respondent, however, it has been wrongly described as the Superintending Engineer, Tamil Nadu Electricity Board, Thirumangalam, Chennai. Therefore, The Superintending Engineer, General Construction Circle-I, Tamil Nadu Electricity Board, Guindy, Chennai.

is substituted in the place of the 2nd respondent.

3. Mr.S.K.Rameshuwar, learned Standing Counsel takes notice on behalf of respondents 1 to 3 and Mr.T.M.Pappiah, learned Special Government Pleader takes notice on behalf of the 4th respondent and with the consent of the counsel on both sides, the main writ petitions are taken up for final disposal.

4. This writ petitions have been filed for the issuance of a writ of mandamus forbearing the respondents from erecting the High Tension Electricity Tower in the land belongs to the petitioners comprised in Survey No.66/1, 67/1, measuring an extent of 2400 sq.ft. and Survey No.65/2D2A & Patta No.5584 measuring an extent of 2400 sq.ft. respectively situate in Vellanoor Village, Ambattur Taluk, Thiruvallur District.

5. The petitioners are the owners of the lands comprised in Survey No.66/1, 67/1, measuring an extent of 2400 sq.ft. and Survey No.65/2D2A & Patta No.5584 measuring an extent of 2400 sq.ft. respectively situate in Vellanoor Village,

Ambattur Taluk, Thiruvallur District. It is the case of the petitioners that without issuing any notice, the respondent Board initiated the work to erect High Tension Electricity Tower in the lands of the petitioners to reach the Exide Battery Company. It is the further contention of the petitioners that the respondent Board are trying to erect towers and draw lines, without following the provisions of law. Originally as per the plan the extension tower has not come into the way of the petitioners lands. However, due to the intervention and influence of third parties, the respondent Board started to interfere with the petitioners lands for erecting the tower without any notice by bifurcating the original plan. Therefore, the petitioners gave representation dated 30.08.2016, to the respondents, objecting the drawing of lines. However there was no response. On the other hand, the officials of the respondent Board are continuing their work to erect the High Tension Electricity Towers. Hence, the petitioners have come before this Court seeking the above stated relief.

6. Heard Mr.Thirumoorthy for Mr/S/Silambu Selvan, learned counsel for the petitioners, Mr.T.M.Pappiah, learned Special Government Pleader appearing for the 4th respondent and Mr.S.K.Rameshuwar, learned Standing Counsel appearing for respondents 1 to 3.

7. As per Section 16 of the Indian Telegraph Act, 1885, the respondents 1 to 3 are required to get permission to enter upon the property of the individual for erecting High Tension Wires or any other work from the District Collector cum District Magistrate. As far as the cases in hand are concerned, admittedly, so far no permission has been obtained by the respondents 1 to 3 from the 4th respondent.

8. Before entering into the properties of the petitioners for erecting the towers or to draw lines, due process of law has to be followed. Moreover, the respondents are bound to pay compensation to the petitioners, since drawing of lines or erection of towers may reduce the value of the properties. In this regard, the respondent Board has to take into consideration the Central Government Guideline for award of compensation.

9. Since the respondents 1 to 3 have not obtained any permission from the 4th respondent, this Court is of the view that it would be appropriate to direct the respondents 1 to 3 to approach the 4th respondent by filing appropriate petition seeking permission to erect transmission tower under Section 16 of the Indian Telegraph Act, 1885. In the meanwhile, the petitioners also shall file a claim petition before the District Collector for compensation.

10. 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."

11. In view of the above, the petitioners are granted two weeks' time from the date of receipt of a copy of this order to file statement of claim. Similarly, the respondents 1 to 3 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 4th 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 4th 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 4th respondent for erecting High Tension Transmission Tower, the respondents 1 to 3 shall not enter upon the petitioners property. On reception of the order determining the compensation, the respondents 1 to 3 are directed to pay compensation as determined by the 4th respondent, directly to the petitioners with four weeks.

The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Call the matter for reporting compliance after ten weeks.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

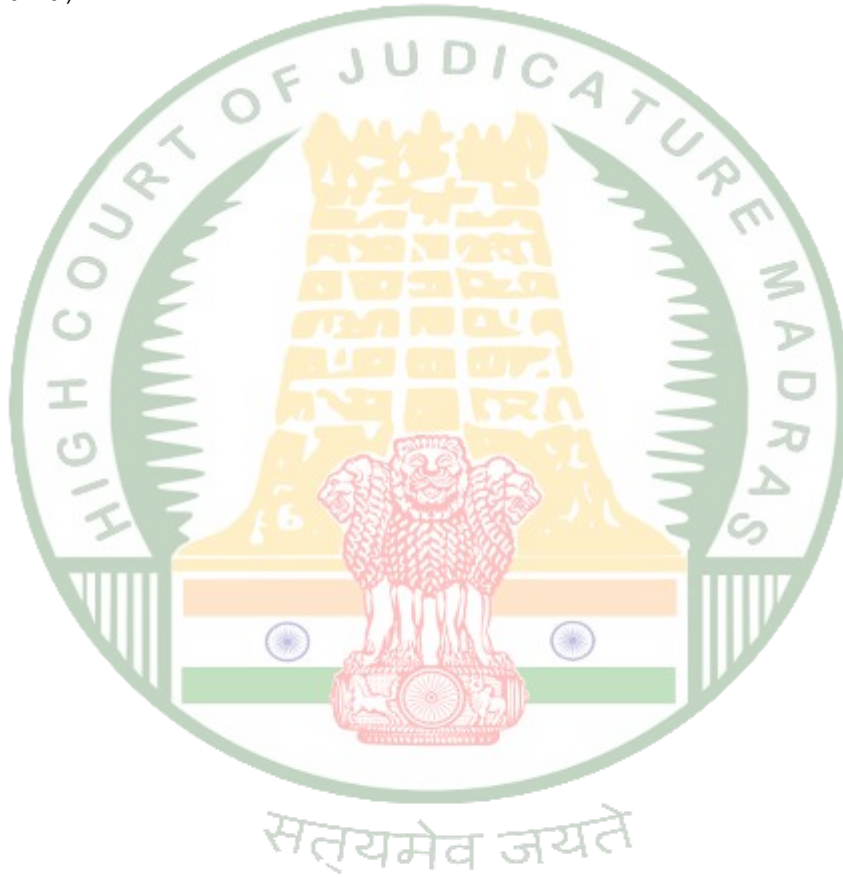
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4. The District Collector,
Thiruvallur District.

+2cc's to M/s.Silambu Selvan, Advocate, S.R.Nos.51066 & 51067
+2cc's to Mr.S.K.Rameshuwar, Advocate, S.R.Nos.51211 & 51212

W.P.Nos.31284 and 31286 of 2016

RSK(CO)
CA(22/09/2016)



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