

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. Nos. 34654 to 34657 of 2016

&

W.M.P. Nos. 29850 to 29853 of 2016

A. Muthusamy ..Petitioner in W.P. No.
34654 of 2016

N.P. Marappan ..Petitioner in W.P.No.
34655 of 2016

S. Velumani ..Petitioner in W.P. No.
34656 of 2016

Eswaramurthy Gounder ..Petitioner in W.P. No.
34657 of 2016

Vs.

1. The District Magistrate/District Collector,
Tirupur District, Tirupur.
2. The Superintending Engineer,
General Construction Circle,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tatabad, Coimbatore - 12.
3. The Superintending Engineer,
General Construction Circle,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Perundurai, Erode District. ..Respondents in all the
writ petitions

Prayer: Petitions under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the respondents from erecting or drawing any High Tension Electricity Towers for EHD line in the respective petitioner's agricultural lands comprised in Survey No. 32/1 situated at Kanakkampalayam Village, Tirupur District (W.P. No. 34654/2016), Survey No. 166/1, situated at Kalampalayam Village, Tirupur District (W.P. No. 34655/2016), Survey Nos. 218/1, 219/1, 220/1B situated at Perumanallur Village,

Tirupur District (W.P. No. 34656/2016) and Survey No. 199/1 situated at Kanakkampalayam Village, Tirupur District (W.P. No. 34657/2016), before considering their representations/objections dated 29.08.2016, 30.08.2016, 05.09.2016 and 14.09.2016 respectively for change of route without affecting their rights of free usage of their lands, on merits and in accordance with law and taking into consideration of all relevant facts including alternative route, by following the provisions of Indian Electricity Act and Indian Telegraph Act, within a reasonable time to be fixed by this Honourable Court.

For Petitioners :: Mr.A.V. Raja

For Respondents :: Mrs.P. Rajalakshmi
Govt. Advocate for R1
Mr.S.K. Raameshuwar
for R2 & R3

O R D E R

The respective petitioners are the owners of properties comprised in Survey No. 32/1 situated at Kanakkampalayam Village, Tirupur District (W.P. No. 34654/2016), Survey No. 166/1, situated at Kalampalayam Village, Tirupur District (W.P. No. 34655/2016), Survey Nos. 218/1, 219/1, 220/1B situated at Perumanallur Village, Tirupur District (W.P. No. 34656/2016) and Survey No. 199/1 situated at Kanakkampalayam Village, Tirupur District (W.P. No. 34657/2016) and they have been cultivating various crops including coconut grove. In the first week of June 2016, the respondent Electricity Board proposed to establish 230 KV station at Eangur for which a High Voltage Electricity Transmission Line (EHD) has to be drawn from Arasur to Eangur, across the petitioners' properties. Therefore, representations were given by the petitioners raising their objections. However, the said objections were not considered by the respondent Board. However, they are attempting to erect the line, by installing the Towers. Hence, the petitioners are before this Court.

2. Heard Mr. A.V.Raja, learned counsel appearing for the petitioners, Mrs.P. Rajalakshmi, learned Government Advocate for the 1st Respondent and Mr.S.K.Rameshwar, learned Standing counsel appearing for respondents 2 & 3.

3. If any electricity line is to be drawn by the respondent Board and if there is any objection from the land owner, it is the bounden duty of the respondent Board to get permission from the District Collector, under Section 16 of the Indian Telegraph Act, 1885. Without getting permission,

the respondent Board cannot enter into the property and lay foundation or draw line across the property. Therefore, the second and third respondents are directed to approach the first respondent seeking permission to enter upon the petitioners' properties and draw the line across the properties, under Section 16 of the said Act.

4. It is brought to the notice of this court that the petitioners have already given their objections vide letters dated 29.08.2016, 30.08.2016, 05.09.2016 & 14.09.2016 respectively and therefore, the first respondent is directed to hear the petitioners as well as the third respondent and pass appropriate orders under Section 16 of the Indian Telegraph Act.

5. Now, coming to the issue raised by the petitioners in the writ petitions that alternative alignment was not considered by the respondent Board, the electricity board, only after taking expert's opinion, decides about the alignment and therefore, the alignment, at the instance of one land owner, cannot be changed. If that is going to be allowed, then there will not be any end at all and every owner would raise objection and the public project cannot be completed at the earliest. Therefore, while rejecting the plea of the petitioners, the first respondent is also directed to decide about the compensation to be paid to the petitioners, while passing orders under Section 16 of the Indian Telegraph Act, 1885. The third respondent is directed to approach the authorities, within two weeks from the date of receipt of a copy of this order and on such approach, the first respondent, after giving notice to the petitioners, shall hear and decide the matter, within a period of four (4) weeks thereof.

6. Till the second and third respondents approach the first respondent and the first respondent passes appropriate orders under Section 16 of the Indian Telegraph Act, 1885, the second and third respondents are restrained from entering upon the petitioners' properties.

7. With the above observation and direction, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nv

To

1. The District Magistrate/District Collector,
Tirupur District,
Tirupur.

2.The Superintending Engineer,
General Construction Circle,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Tatabad, Coimbatore - 12.

3.The Superintending Engineer,
General Construction Circle,
Tamil Nadu Generation and
Distribution Corporation Ltd.
Perundurai, Erode District.

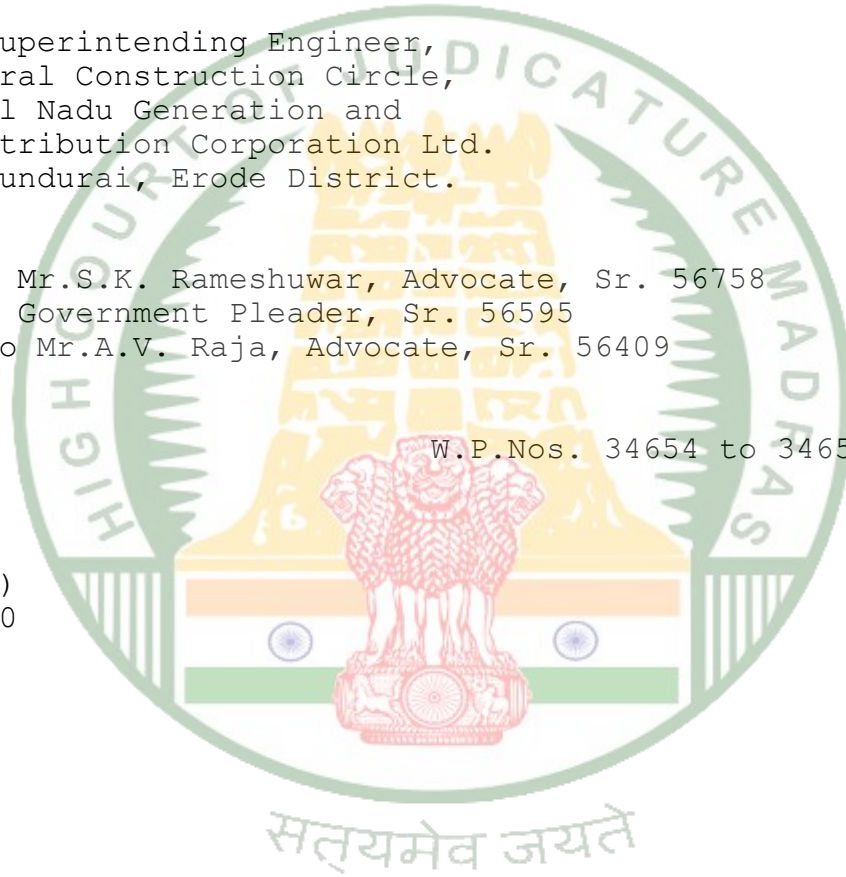
1 cc to Mr.S.K. Rameshuwar, Advocate, Sr. 56758

1 cc to Government Pleader, Sr. 56595

4 ccs to Mr.A.V. Raja, Advocate, Sr. 56409

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SKV (CO)
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