

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

W.P. No. 40981 of 2016
&
W.M.P. No. 34973 of 2016

R. Soundappan

..Petitioner

Vs.

1. The District Collector,
District Collector Office - Dharmapuri,
Salem Main Road,
Near Superintendent of Police Office,
Dharmapuri - 05.
2. Tamil Nadu Generation and Distribution
Corporation Limited,
rep. by its Chairman,
10th Floor, NPKRR Maaligai,
No.144, Anna Salai,
Chennai -2.
3. The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Salem.
4. The Commission & Director of Geology
& Mining,
Guindy, Chennai - 600 032.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 3rd respondent, their men, officers, representatives from in any manner erecting HT Towers/Line in the Petitioner's lands bearing S.F. No. 718/1B, 719/1, 719/3 and S.F. No. 723/1, Ramakondakalli Village, Pennagaram Taluk, which is against the 4th respondent's proceedings dated 02.11.2006 and the 1st respondent's lease

agreements dated 07.12.2006 and without following the provisions of the Electricity Act, 2003 and the Indian Telegraphic Act, 1885.

For Petitioner :: Mr.S.P. Parthasarathy

For Respondents:: Mr.T.M. Pappiah,
Special Govt. Pleader for R1 &R4
Mr.S.K. Raameshuwar
for R2 & R3

O R D E R

The petitioner is the owner of the lands in S.F.Nos. 718/1B, 719/1, 719/3 to an extent of 2.54.5 hectares and S.F. No. 723/1 to an extent of 1.26.01 hectares, both situated at Ramakondakalli Village, Pennagaram Taluk, Dharmapuri District. The petitioner had also obtained mining lease to carry out mining operations from the 4th respondent in S.F.NOs.723/1, 718/1B, 719/1, 719/3 on 2.11.2006 for a period of 20 years. Subsequently, two separate lease deeds dated 07.12.2006 were entered into between the petitioner and the 1st respondent, one with respect to S.F. Nos. 718/1B, 719/1 and 719/3 and the other with respect to S.F. No. 723/1. Thereafter, the petitioner has been doing mining operations and the approval for mining is in force for 20 years till 2026. When things stand so, the officials of the 2nd respondent tried to enter upon the property of the petitioner to install high tension transmission tower, which was objected to by the petitioner. In spite of the objection raised, the officials of 2nd respondent started measuring the petitioner's lands for installation of HT towers compelling the petitioner to come before this Court.

2. Heard Mr.S.P. Parthasarathy, learned counsel for the petitioner, Mr.T.M. Pappiah, learned Special Government Pleader for respondents 1 and 4 and Mr.S.K. Raameshuwar, learned Standing Counsel for respondents 2 and 3.

3. Mr.S.K. Raameshuwar, learned counsel for respondents 2 and 3 would submit that high tension towers have to be erected in the petitioner's lands for the purpose of drawing 400KV Rasipalayam - Palavadi high tension transmission lines. Since it is an important project, the respondent Corporation should be allowed to erect the towers.

4. It is evident that the petitioner is the owner of the lands in question and he has also obtained mining lease for 20 years commencing from 2006 to 2026. Moreover, the petitioner objected to the erection of towers in his lands. When objection

has been raised by the owner of the land, the proper course open to the respondent Corporation is to approach the District Collector/District Magistrate, the 1st respondent herein, under Section 16 of the Indian Telegraph Act, 1885, seeking permission to enter upon the property. So far, no such steps have been taken by the respondent Corporation. Therefore, the 3rd respondent is directed to approach the 1st respondent under Section 16 of the Indian Telegraph Act, 1885, seeking permission. In the meanwhile, it is also open to the petitioner to file objections to the erection of towers and also seek compensation, in case of permission being granted to respondents 2 and 3 to go on with the project.

5. Hence, the 3rd respondent is directed to approach the 1st respondent, seeking permission, within a period of two weeks from the date of receipt of a copy of this order and similarly, the petitioner is directed to give his objections as well as his request for compensation to the 1st respondent, within a period of two weeks from the date of receipt of a copy of this order. The 1st respondent shall conduct enquiry, on the petitions filed by both the 3rd respondent and the petitioner and thereafter, pass appropriate orders, on merits and as per law, within a period of eight weeks thereafter. In the event of the 1st respondent granting permission to the 3rd respondent to erect towers in the land of the petitioner, the compensation payable to the petitioner shall also be quantified and paid to the petitioner, within a period of eight weeks therefrom. However, till such permission is granted by the 1st respondent, the respondent Corporation shall not enter upon the property of the petitioner. The writ petition is disposed of accordingly. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The District Collector,
District Collector Office - Dharmapuri,
Salem Main Road,

Near Superintendent of Police Office,
Dharmapuri - 05.

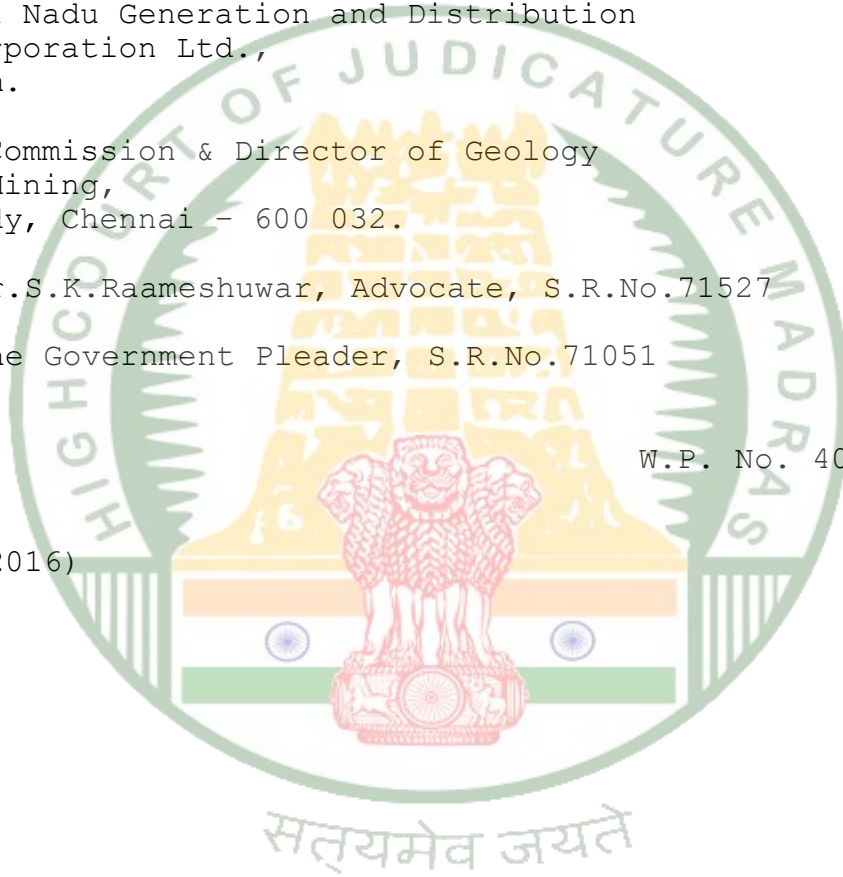
2. Tamil Nadu Generation and Distribution Corporation Limited,
rep. by its Chairman,
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3. The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Salem.
4. The Commission & Director of Geology
& Mining,
Guindy, Chennai - 600 032.

+1cc to Mr.S.K.Raameshuwar, Advocate, S.R.No.71527

+1cc to the Government Pleader, S.R.No.71051

W.P. No. 40981 of 2016

AD(CO)
MA(29/12/2016)



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