

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.5119/2016 & WMP.No.4481/2016

K.K.Sureshkumar

.. Petitioner

Vs

1.The Chairman
Tamil Nadu Electricity Board
No.144, Anna Salai, Chennai-2.

2.The Executive Engineer
Tamil Nadu Electricity Board
Gobichettipalayam, Erode District.

3.The Assistant Engineer
Tamil Nadu Electricity Board
Gobichettipalayam Circle,
Othakuthirai-638455
Erode District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to forbear the respondents from carrying electricity line over the petitioner's land in Old Survey No.21/A2, new Survey No.26/4 situated at Kalankattuvalasu, Vadakalur, Polavakalipalayam, Gobichettipalayam.

For Petitioner : Mr.K.Sathish Kumar
For Respondents : Mr.S.K.Rameshwaru

सत्यमेव जयते
ORDER

Heard Mr.K.Sathish Kumar, learned counsel for the petitioner ; learned Mr.S.K.Rameshwar, learned counsel accepting notice on behalf of the respondents and with their consent, this writ petition is taken up for final disposal at the admission stage itself.

2 The petitioner has filed this writ petition seeking direction to forbear the respondents from drawing electric line over the property of the petitioner comprised in Old Survey No.21/A2, new Survey No.26/4 situated at Kalankattuvalasu, Vadakalur, Polavakalipalayam, Gobichettipalayam.

3 The petitioner would state that the land is a private patta land and the question of drawing the overhead power line through his private patta land cannot be made without his consent. The petitioner along with four others has filed a suit before the District Munsif Court, Gobichettipalayam in OS.No.157.2914 for a decree of permanent injunction to restrain the defendants therein, viz., Ponnusamy, Venkatachalam and Dinakaran, from interfering with his possession and enjoyment of the suit property. In the plaint, it has been stated that the said defendants are attempting to lay a pathway across the land in question. It is stated that an application has been filed in the said suit for appointment of an Advocate Commissioner to note down the physical features of the property and the said application is pending. In the meantime, the petitioner has also given a representation to the 3rd respondent on 11.01.2016 objecting to the proposal of drawing electric line. Pursuant thereto, the 3rd respondent has issued a Memo dated 11.01.2016 to the petitioner calling upon the petitioner to produce necessary documents within a period of fifteen days. This is stated to have been complied with by the petitioner on 19.01.2016 followed by a further representation on 27.01.2016. Thus, the matter is now pending consideration before the 3rd respondent and the 3rd respondent has to decide the matter one way or the other, after notice to the petitioner and the persons for whom the electric power line is being drawn. It appears that the beneficiaries of the electric connection are the defendants in the suit, viz., Ponnusamy, Venkatachalam and Dinakaran.

4 Learned Standing counsel appearing for the respondents would submit that the 3rd respondent will enquire into the matter after issuing notice to all concerned.

5 Since the petitioner has not impleaded the beneficiaries as respondents in this writ petition, the merits of the allegations made by the petitioner cannot be gone into in this writ petition and it has to be decided by the 3rd respondent.

6 Thus, taking note of the above facts and circumstances, there will be a direction to the 3rd respondent to enquire into the petitioner's complaint pursuant to the notice dated 11.01.2016, by considering the petitioner's representation dated 27.01.2016 and the documents filed therewith. The 3rd respondent shall issue notice to the petitioner and all the beneficiaries regarding drawing of the proposed electric line, hear the parties and pass a reasoned order on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. Till such time, the proposed electric power line shall not be drawn.

7 The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Chairman
Tamil Nadu Electricity Board
No.144, Anna Salai, Chennai-2.
- 2.The Executive Engineer
Tamil Nadu Electricity Board
Gobichettipalayam, Erode District.
- 3.The Assistant Engineer
Tamil Nadu Electricity Board
Gobichettipalayam Circle,
Othakuthirai-638455, Erode District.

+1cc to Mr.K.Sathiskumar, Advocate, S.R.No.8748
+1cc to Mr.S.K.Rameshwar, Advocate, S.R.No.9306

WP.No.5119/2016

vd(CO)
srg(18/02/2016)

सत्यमेव जयते

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