



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

W.A(MD) No.1544 of 2016

and C.M.P. (MD) No.11398 of 2016

Ramasamy

... Appellant/6th Respondent

Vs.

1.M.Samayaraja

... 1st Respondent/Petitioner

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Electricity,
Chennai.

3.The Chairman,
Tamil Nadu Electricity Board,
Annasalai,
Chennai.

4.The District Collector,
Madurai District,
Madurai.

5.The Commissioner of Police,
Madurai City,
Madurai.

6.Ashokan,
The Inspector of Police,
C5, Karimedu Police Station,
Madurai.

7.The Commissioner,
Corporation of Madurai,
Anna Maligai,
Madurai.

... Respondents 2 to 7/
Respondents 1 to 5 & 7

PRAYER: The Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 14.02.2013 made in W.P.(MD) No.8301 of 2011.

Prayer in WP(MD)No.8301/2011:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS, directing the Respondents 3 and 4 to take necessary action against 5th Respondent for his unlawful act and to change investigation officer to investigate the accident case of the Petitioner and to file a final report and directing the Respondent to grant compensation for a sum of Rs.10 Lakhs and to pay the same to the Petitioner.



For Appellant

: Mr.R.Rajamohan

For Respondents 2, 4 & 5

: Mr.R.Velmurugan
Government Advocate

For 3rd Respondent

: Mr.S.M.S.Johnny Basha

For 7th Respondent

: Mr.R.Murali

J U D G M E N T

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

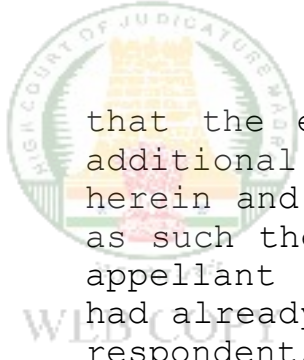
By consent, this Writ Appeal is taken up for final disposal.

2.The 6th respondent in W.P.(MD) No.8301 of 2011 is the appellant herein. The first respondent herein filed the said writ petition praying for the issuance of a writ of mandamus, directing the District Collector, Madurai District and the Commissioner of Police, Madurai City, Madurai to take necessary action against the 6th respondent herein/Inspector of Police, C5, Karimedu Police Station, Madurai and to change the investigation and a further direction directing the respondents to grant compensation of Rs.10,00,000/-.

3.It is the case of the deponent in the affidavit filed in support of the writ petition is that he is the father and next friend of 1st respondent/writ petitioner Samayaraj, aged 23 years, who has sustained burn injury due to electrocution and now bed-ridden and according to him the petitioner went to toilet room to attend nature's call, which was located near the High Tension Power Line laid by the 2nd respondent and it was also not maintained properly and as such he suffered electrocution as a consequence, sustained grievous injuries. It is the further case of the first respondent that the Inspector of Police, Karimedu Police Station did not take effective steps to nap all responsible for the improper maintenance of High Tension Power Line and to get all eligible benefits to the petitioner, he was constrained to file the writ petition to change the investigation and also for compensation.

4.On behalf of the 3rd respondent herein, who was arrayed as 2nd respondent in the writ petition, counter affidavit was filed stating among other things that the High Tension Wire has been maintained properly by the staff of the Tamil Nadu Electricity Board and as such there is no negligence on his part.

5. The Writ Petition was entertained and at the time of admission, this Court has directed the Inspector of Police, Karimedu Police Station to appear before the Court along with the case records and it was also brought to the notice of the Court



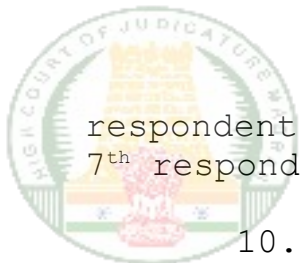
that the electrocution of the petitioner was caused due to the additional floor constructed unauthorisedly by the appellant herein and it became closer to the extra High Tension Power Line, as such the writ petitioner has suffered electrocution. The son of appellant appeared before the Court submitted that certain amount had already been deposited to the hospital for treatment of the 1st respondent/writ petitioner and he undertook to provide money for further treatment and therefore, the writ petition was directed to be listed on 05.08.2011 so as to enable the respondents to file their counter. This Court after hearing both sides has also directed the District Collector, Madurai to consider the claim of the petitioner for appropriate relief in terms of the Public Liability Insurance Act, 1991 and it was also brought to the knowledge of the Court that the 6th respondent did not pay any amount for the treatment of the writ petitioner. Therefore, this Court has ordered the 6th respondent to pay amount towards the expenses incurred for treating the first respondent/writ petitioner, without prejudice to his rights and contentions.

6.The Court has recorded the fact as per the proceedings of Madurai Corporation, dated 17.08.2011, the sixth respondent had not obtained any sanction for building the additional floor and since it was very near to the High Tension Power Line, the first floor was also demolished. As such, the appellant/6th respondent is responsible for the negligent act in putting up additional construction without adequate clearance from the electricity Board. The Court further found that 6th respondent has also took a contra stand as if he has not instructed his son to give undertaking to make further payment. Thus, taking into consideration the overall facts and circumstances, this Court has directed the first respondent to produce the medical bills before this Court so as to enable the Electricity Board for payment and also ordered attachment of immovable property belongs to the 6th respondent, for the Electricity Board to take such proceedings as are available for recovering the amount paid. The 6th respondent, challenging the said final order, passed in the writ petition has come forward to file this Writ Petition.

7.This Writ Appeal was filed on 30.04.2013 with a delay of 32 days. After condoning of delay, it was numbered and listed for admission today.

8. The learned Counsel appearing for the appellant would contend that since fair, reasonable and adequate opportunity was not afforded to him, the impugned order may be set aside and the writ petition may be remanded for fresh consideration and therefore, prays for appropriate order .

9.This Court heard the submission of Mr.R.Velmurugan, the learned Government Advocate appearing for respondents 2,4 and 5 Mr.S.M.S.Johnny Basha, the learned Counsel appearing for the 3rd



respondent and Mr.R.Murali, the learned Counsel appearing for the 7th respondent on the above submissions.

10. A perusal of the impugned order would show that on the notice sent to the appellant/6th respondent, his son appeared in person and promised to meet out the medical expenses of the first respondent/writ petitioner, however did not comply with the same. Further, the 6th respondent has took a very curious stand that he did not instruct his son to make such undertaking. Further, despite opportunity having been given, he has not put forth appropriate and tenable explanation. It is also the stand of the 7th respondent herein that the appellant/6th respondent has unauthorisedlly put up additional construcion, thereby it is very nearer to the High Tension Power Line and as a consequence the first respondent has suffered electrocution. Thus, the 6th respondent prima-facie appears to be violator of law and taking into consideration of the same and also his conduct, the learned Judge has ordered attachment of his immovable property till finality is reached between the Tamil Nadu Electricity Board and the appellant/6th respondent.

11. This Court on independent application of the entire materials available on record is of the view that there is no error in the reasons assigned in the order made in the writ petition and there is no merit in the Writ Appeal. Therefore, the Writ Appeal deserves dismissal.

12.The Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government, Department of Electricity,
Government of Tamil Nadu, Chennai.

2.The Chairman, Tamil Nadu Electricity Board,
Annasalai, Chennai.

3.The District Collector, Madurai District, Madurai.

4.The Commissioner of Police, Madurai City, Madurai.

5.The Commissioner, Corporation of Madurai,
Anna Maligai, Madurai.

+One cc to Mr.S.M.S.Johnny Basha, Advocate, SR.No.78158

+One cc to The Special Government Pleader, SR.No.74226

sj