



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.09.2016

CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.A.(MD)No.39 of 2016

&

C.M.P.(MD)Nos.311 & 2087 of 2016

1.Udayarajan, S/o.Solai
2.Ganesan, S/o.Sangili Chettiar
3.Sobana, W/o.Palanisamy

..Appellants

Vs.

1.The Executive Engineer,
East Division,
TANGEDCO,
Madurai - 14.

2.The Assistant Engineer,
Rural/East TANGEDCO,
Melur, Madurai District.

3.Sukumaran, S/o.Selvaraj

..Respondents

Appeal filed under under Clause 15 of the Letters Patent, against the order dated 16.12.2015, made in W.P.(MD)No.5411 of 2015.

Prayer in WP(MD). 5411/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the respondents 1 and 2 from erecting any electric poles through common pathway situated in Survey No.254 in Chettiar Street, Kottanathampatti village, Ambalakaranpatti, Melur Taluk, Madurai District.

For Appellants	:	Mr.V.Sasikumar
For R1 & R2	:	Mrs.S.Srimathy
For R3	:	Mr.K.P.Narayanakumar

JUDGMENT

(Judgment of the Court was made by M.SATHYANARAYANAN, J.)

By consent, the writ appeal is taken up for disposal.

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9. In the considered opinion of this Court, the question as to whether the appellants are the owners of the common pathway or not, cannot be adjudicated by the Court in the exercise of jurisdiction conferred under Article 226 of the Constitution of India and the learned Judge in the light of the stand taken by the respondents also observed that it is the prerogative of the



respondents 1 and 2 to take decision according to convenience and feasibility.

10. In the considered opinion of this Court, the reasons cannot be found fault with and the points urged by the learned counsel for the appellants also involve adjudication of disputed facts, for which, availing writ remedy under Article 226 of the Constitution of India is not a proper remedy.

11. In the result, the writ appeal is dismissed confirming the order of the learned Single Judge, dated 16.12.2015, made in W.P. (MD)No.5411 of 2015 and if the appellants are so advised, they are at liberty to avail the common law remedy in accordance with law. No costs. Consequently, C.M.P.(MD)Nos.311 and 2087 of 2016 are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Executive Engineer, East Division, TANGEDCO,
Madurai - 14.

2.The Assistant Engineer, Rural/East TANGEDCO,
Melur, Madurai District.

+1cc to M/s.A.Mohan, Advocate in SR.53443

+1cc to M/s.K.P.Narayanakumra, Advocate in SR.53439

W.A.(MD)No.39 of 2016
& C.M.P.(MD)Nos.311 & 2087 of 2016
19.09.2016

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