

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WIRT PETITION No.29601 OF 2013

ORDER:

The Writ Petition is filed seeking a writ of mandamus declaring the action of the respondent No.1 in trying to shift the existing transformer nearer to the main gate of the petitioner for the reason that the existing transformer is a "Vasthu Dosham" to the Respondent No.2, as illegal, arbitrary and violative of fundamental rights of the petitioner and other residents of the colony.

2) The case of the petitioner is that he purchased the property under a Registered Sale Deed bearing No.4059/2012, dated 05.10.2012 and constructed a house therein. The grievance of the petitioner is that an electric transformer is sought to be erected in front of his house bearing No.27-68/33 at East Anandbagh, Malkajgiria, which is causing hindrance to him and thereby he has approached the respondent authorities to not to shift the transformer from the existing Plot No.38 to in front of his house. It is also the allegation of the petitioner that the shifting is being done at the instance of the 2nd respondent.

3) So far as the 2nd respondent is concerned, he filed a counter affidavit setting out that in terms of the sanction accorded by the department originally in the year 2009 the location of the transformer was near the petitioner's house i.e., near the Pole No.60. However, on the objection raised by the petitioner the same came to be erected in front of his house i.e., at Plot No.38. He has approached the department objecting for the same.

3) The respondent No.4-Anantha Saraswathi Nagar Residents Welfare Association, supporting the 2nd respondent. So far as the Association is concerned, it is the submission of the Association that at the instance of the members of the Association, residents in the colony made a requisition to the Department complaining about the low voltage and fluctuations in the voltage and requested for erection of additional transformer, considering the request made by the Association the erection of transformer was sanctioned at Pole No.60 and as such the same ought to have been erected in the same place in stead of at Plot No.38. In that view of the matter, they opposed the writ petition stating that the platform for erection of the transformer was already constructed and a sum of Rs.1,14,291/- was in fact sanctioned by the Municipality. They submit that acceding to the request of the petitioner the proposal to not to shift the transformer from Plot No.38 to Pole No.60 is a *malafide*.

4) The 1st respondent filed a counter denying the allegations of the petitioner and the counter virtually supports the petitioner. The respondent No.1 in his counter had stated that the transformer was erected at Pillar No.62 near Reddemma House at the end of the road and does not cause any hindrance to the free flow of traffic, whereas if the transformer is shifted to Pillar No.60, which is located at "X" cross roads, the same is likely to cause traffic hindrance. The identification of the pillar as more appropriate is done on the feasibility and also convenience and to cause least hindrance to anyone particularly the free flow of traffic. Further it is stated there is no proposal to shift the transformer from the existing Pillar No.62.

5) Learned counsel for the 2nd and 4th respondent vehemently opposed the granting of any relief in the writ petition and further they submit that the 1st respondent has colluded with the petitioner which is denied by the petitioner.

6) Having considered the rival submissions and in the light of the stand taken by the 1st respondent that it is the technical necessity and the finances which have been taken into consideration in erecting the transformer, the respondent Nos.2 and 4 cannot have any objection in the 1st respondent dropping the proposal to shift the transformer to in front of the petitioner's house. If the 2nd respondent has any grievance of the existence of the transformer in front of his house he is always at liberty to approach the department and seek shifting of the same to some other suitable place setting out the reasons and the inconvenience that is likely to cause or that is being caused. Merely because the department has taken a decision to drop the proposal of shifting the transformer from existing location to in front of the petitioner's house, 2nd respondent cannot make a grievance and cannot insist the department to shift the same in front of the petitioner's house. In that view of the matter, so far as the objection of the 2nd respondent in granting relief to the petitioner cannot be sustained. This however, does not preclude the 2nd respondent to approach the department authorities by filing an application seeking to remove the transformer in front of his house and locate it elsewhere. As and when such application is made it is open for the department to consider it, subject to the technical and other financial feasibilities.

7) Accordingly, the Writ Petition is disposed of. There shall be

no order as to costs. Consequently, the miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated: 03.03.2016

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