

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE M.M. SUNDRESH

Writ Petition No.6321 of 2017

and

W.M.P.No.6814 of 2017

1. M. Ramasamy,
2. M. Kaliyan. Petitioners

Vs

1. The Superintending Engineer,
General Construction Circle,
TANTRANSCO,
Tiruchirappalli - 620 020.
2. The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Transmission Line Construction,
Villupuram - 605 602.
3. The Junior Engineer,
Tamil Nadu Electricity Board,
Transmission Line Construction,
Villupuram - 605 602.
4. The District Collector cum District Magistrate,
Villupuram District, सत्यमेव जयते
Villupuram. ... Respondents

PRAYER: Writ of Certiorarified Mandamus Petition filed under Article 226 of Constitution of India, to call for the records pertaining to the impugned order in Letter No.Me.Po/Po.Ne/Va Trichy / Fine W.P.No.25623 of 2012 / Ks.No./12 dated 01.11.2012 by the first respondent, to quash the same and forbearing the respondents 1 to 3 from taking over head electricity lines across or from erecting tower for laying electricity towers in the petitioners' property, bearing R.S.F.No.75/6B - 0.09.50 acre (full extent) and R.S.F. No.75/6C - 0.08.50 (full extent) situated at Mattigaikurichi Village, Kallakurichi Taluk,

Villupuram District.

For Petitioners : Mr. V. Manohar
For Respondents 1 - 3: Mr. Varunkumar
Standing Counsel

O R D E R

By consent, the Writ Petition is taken up for final disposal. Mr. Varunkumar, learned Standing Counsel, accepts notice on behalf of respondents 1 to 3.

2. This Writ Petition appears to be third round of litigation. The petitioner, earlier filed a suit for the relief of permanent injunction, restraining the respondents herein from erecting any electrical tower or electrical lines. The suit was dismissed, as did the Lower Appellate Court as also this Court. The petitioners earlier filed W.P.No.25623 of 2012, which was disposed of, by order, dated 01.10.2012. Now, the petitioners have come forward with this Writ Petition, challenging the order passed by the first respondent, dated 01.11.2012.

3. Mr. V. Manohar, learned counsel for the petitioner would submit that, in view of the observation made by this Court, in Second Appeal No.194 of 2015, dated 08.12.2016, the petitioners are entitled for the relief sought for in this Writ Petition. Reliance has also been placed on the deposition of D.W.1, dated 24.07.2013, in O.S.No.401 of 2011, in this connection.

4. This Court is not inclined to entertain this Writ Petition. The representation of the petitioners was disposed, as early as on 01.11.2012, pursuant to the order/direction passed/issued by this Court, in W.P.No.25623 of 2012, dated 01.10.2012. Even prior to that, the petitioners have filed the suit in O.S.No.401 of 2011. It appears that the pendency of the suit has not been brought to the notice of the Court at the time of passing of the order in W.P.No.25623 of 2012. The observation made by this Court has to be seen in its own context. The petitioners do not have any vested right. They have not challenged the order for more than four years. On the contrary, they proceeded with the case before the Civil Court. Thus, the observation made by this Court, in Second Appeal No.194 of 2015, cannot be taken advantage at this stage. The said observation was made in accordance with the order passed by this Court in W.P.No.25623 of 2012, on 01.10.2012, and the order passed by the first respondent is in compliance of the direction issued thereon.

5. In result, the Writ Petition is dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Superintending Engineer,
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Tamil Nadu Electricity Board,
Transmission Line Construction,
Villupuram - 605 602.
4. The District Collector cum District Magistrate,
Villupuram District,
Villupuram.

+1cc to Mr.V. Manohar, Advocate, S.R.No.16501
+1cc to Mr.M. Varun kumar, Advocate, S.R.No.15964

lrs(CO)
md(10/04/2017)

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W.M.P.No.6814 of 2017