

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.A.Nos.557, 558, 559 and 560 of 2017
and
C.M.P.Nos.7937, 7938, 7939 and 7940 of 2017

M.Vaduganathan ... Appellant in W.A.No.557 of 2017
C.Valli ... Appellant in W.A.No.558 of 2017
M.Saminathan ... Appellant in W.A.No.559 of 2017
P.Parthiban ... Appellant in W.A.No.560 of 2017

Vs.

1. The District Collector,
Tiruppur District,
Tiruppur
2. The Superintendent Engineer,
General Construction Circle,
TANTRANSCO,
Athur Bypass Road,
Udayampatti, Salem
3. The Executive Engineer,
General Construction Circle,
TANTRANSCO,
Ellamedu, Ingur,
Perudurai Taluk,
Erode District

.. Respondents in all W.As

Common Prayer : Writ Appeals filed under Clause 15 of Letters Patent against the interim order dated 27.04.2017 passed in W.P.Nos. 6633, 6634, 6635 and 6641 of 2017.

Prayers in W.P.No.6633/17, 6634/17, 6635/17 & W.P.No.6641/17

Writ Petitions filed Under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus

to call for the records of the impugned order dt 8.2.2016 in Na.Ka. No. 15451/2014/U4 of the 1st respondent and quash the

same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 30 bearing S.F. Nos.271/2B 283 and 272 of Sooriyanallur Village Dharapuram Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.(W.P.No.6633 of 2017)

to call for the records of the impugned order dt 8.2.2016 in Na.Ka. No. 15451/2014/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 2.10 cents bearing S.F. No.232/6 of Sooriyanallur Village Dharapuram Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.(W.P.No.6634 of 2017)

to call for the records of the impugned order dt 8.2.2016 in Na.Ka. No. 15451/2014/U4 of the 1st respondent and quash the same and consequently restrain the respondents 2 and 3 from taking steps to erect the HT Tower and Lines over the petitioners lands measuring Acres 10 bearing S.F. Nos.283 and 284/2 of Sooriyanallur Village Dharapuram Taluk Tiruppur District till the strict compliance of the procedure established under Sections 10 and 16 (1) of the Indian Telegraph Act 1885 read with Section 68 (1) of the Indian Electricity Act 2003.(W.P.No.6635 of 2017)

Writ of Mandamus directing the respondents to remove the illegal tower lines wires drawn by the 2nd & 3rd respondents across the Petitioners Lands Measurements Acres 4 Bearing S.F.Nos. 241 & 247 of Sooriyanallur Village Dharapuram Taluk Tiruppur District.(W.P.No.6641 of 2017)

For Appellant : Mr.M.Easan
in all W.As

For Respondents : Mr.C.Manishankar,
in all W.As Additional Advocate General,
assisted by Mr.S.K.Raameshuwar

COMMON JUDGMENT

(The Judgment of the Court was delivered by N.Kirubakaran,J)

These Writ Appeals have been filed against the interim order dated 27.04.2017 passed by the learned Judge modifying the order

granted earlier in WP.Nos.6633, 6634, 6635 and 6641 of 2017.

2. The learned counsel for the appellants would submit that contrary to the permission granted by the District Collector, omitting the properties of 10 persons, the appellants' and others properties alone have been chosen to erect the tower, and even the change of alignment contrary to the proposal of the District Collector would affect the appellants.

3. On the other hand, Mr.C.Manishankar, Additional Advocate General would submit that the entire work has already been completed, and taking note of the areal stringing made by the respondents, except in a few places, permission has been granted to energize the lines.

4. A perusal of the order passed by the learned Single Judge would reveal that the learned Single Judge had took note of completion of stringing work, and only energizing of the lines alone were left to be completed, and therefore, the learned Judge had modified the order vide his order dated 27.04.2017. Paragraph Nos.3 & 4 of the said interim order is extracted as follows :

"3. The records produced would show that the foundation was completed on 10.02.2016 in so far as W.P.No.6633 of 2017 is concerned and on 14.03.2016 in so far as W.P.No.6635 of 2017 is concerned. In so far as other three writ petitions i.e., W.P.Nos.6634, 7869 and 6641 of 2017 are concerned, an areal crossing is only involved. In the first two writ petitions mentioned above, the tower erection was completed on 03.07.2016 and 09.04.2016 respectively. These activities have been carried on even much prior to the filing of the writ petitions. In all the cases stringing has been completed. Therefore, what is required to be done is the act of energizing.

4. Considering the above, without prejudice to the contentions of the petitioners and the respondents, interim order granted in W.P.Nos.6633, 6634, 6635, 6641 and 7869 of 2017 are modified to the effect that the respondents are permitted to energize the lines. This order is subject to the order to be passed in the writ petitions as pleadings are ready."

5. The erection of towers and stringing are only an infrastructure building exercise in the interest of the people, and merely because somebody's right is affected, that cannot be a ground to stall the entire project. After all, that is going

to be done in the interest of vast population of about 130 crores of people in this country and hence, it is impossible to stop the public project. Moreover, the energizing of lines alone has been permitted by the learned Single Judge without prejudice to the rights of the parties. Further, the writ petition has been posted for orders on 06.06.2017 for final disposal. When that is the position, this Court is not inclined to interfere with the order dated 27.04.2017 passed by the learned Single Judge in the said Writ Petitions.

6. In the result, the Writ Appeals fail and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(V.O)

//True Copy//

Sub Assistant Registrar

srn/ds

1. The District Collector,
Tiruppur District,
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2. The Superintendent Engineer
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Perudurai Taluk,
Erode District.

+1cc to Mr.S.K.Raameshuwar, Advocate Sr.36679

W.A.Nos.557 to 560 of 2017

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srg 12/05/2017