

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.05.2017

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

W.P. No.13122 of 2017

and

W.M.P No. 14098 of 2017

M/s.Jacaranda Properties Private Limited,  
No.12 South Mada Street,  
Srinagar Colony,  
Saidapet, Chennai - 600 015. .... Petitioner

/Vs/

- 1.The District Collector,  
Kancheepuram District,  
Kancheepuram.
- 2.The Chairman,  
Tamil Nadu Transmission Corporation Ltd.,  
(TANTRANSCO),  
144, Anna Salai,  
Chennai - 600 002.
3. The Chief Engineer,  
Transmission,  
Tamil Nadu Transmission Corporation Ltd.,  
(TANTRANSCO),  
144, Anna Salai,  
Chennai - 600 002.
- 4.The Superintending Engineer,  
General Construction Circle - II,  
A-10, T.V.K. Industrial Estate,  
Chennai - 600 032.
- 5.The Tahsildar,  
Kancheepuram Taluk Office,  
Kancheepuram,  
Kancheepuram District
6. The Director,  
Directorate of Town and Country Planning  
No.807, Anna Salai,  
Chennai - 600 002.

7. The Member Secretary,  
Mamallapuram Local Planning Authority,  
Five radhas commerical complex  
Mamallapuram - 603 104.

..Respondents

PRAYER : The writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the Respondents 2 to 4, its men and agent from interfering with the possession and enjoyment of the lands in S.Nos.171/1, 173/1 and 173/2, in any manner more specifically for the purpose of erection of HT towers without adhering to the special conditions imposed by the 1st Respondent in his order dated 17.05.2017 in Rc.No. 7161/2017/M1 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.AR.L.Sundaresan  
for Mr.C.V.Shailandhran

For Respondent : Mr.Abdul Salem  
Nos. 2 to 4

For Respondent : Mr.S.Diwakar,  
Nos.1,5 to 7 Special Government Pleader,

#### O R D E R

This writ petition has been filed seeking issuance of Writ of Mandamus forbearing the respondents 2 to 4, its men and agent from interfering with the possession and enjoyment of the lands in S.Nos.171/1, 173/1 and 173/2, in any manner more specifically for the purpose of erection of HT towers without adhering to the special conditions imposed by the respondent no.1 in his order dated 17.05.2017 in Rc.No.7161/2017/M1 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

2.An order was passed by the respondent No.1, in pursuant to the direction issued by this Court in W.P.No.16905 of 2016 filed by the petitioner in R.O.C.No.7161/2017/M1 dated 17.05.2017 in exercising powers under Section 10 r/w 16 of the Indian Telegraphic Act, 1885. The following is the operative portion of the order:

"The petitioners request to realign the power transmission line may not be accepted because

1) This 400 KV DC line from Kayatharu  
400 KV SS (Thirunelveli Region) to

Ottiyambakkam 400 KV SS (Sholinganallur, Chennai region) is a great importance to the public and to the state as it transmits the wind energy of above 4000 MW from KJayatharu to Ottiyambakkam (Chennai City). If this project is completed it would be possible to achieve the uninterrupted power supply and it will mitigate power crisis in Tamil Nadu.

2) The tower foundations and erections for all locations (except location No.14) were already completed on this line and deviation of line is not possible at this juncture.

3) Public good is more important for development as it is necessary for commissioning the line without further delay.

Considering the above mention reasons, the Superintending Engineer, TANTRANSO, General Construction Circle - II, Guindy, Chennai - 32 is hereby granted permission under following conditions to enter upon the lands in Siruseri Village, Thiruporur Taluk, Kancheepuram District (for Tower location 14) owned by M/s. Jacaranda Properties Private limited and M/s. XS Real Properties Private Limited, 12, South Mada Street, Srinagar Colony, Saidapet, Chennai 600 015 under section 10 and 16 of the Indian Telegraph Act, 1885 for forming / erecting the high tension electric line tower Loc.14 and associated works in the said land to enable for commissioning of 400 KV DC line from Kayatharu 400 KV SS(Thirunelveli Region) to Ottiyambakkam 400 KV SS (Sholinganallur, Chennai region) and ordered accordingly. The petitioners' objection is considered and rejected.

Special conditions:

- 1) The OSR already approved by Directorate of Town and Country Planning Authority in the site has to be replaced in the corridor of the Tower line.
- 2) Originally approved EWS house block has to be realigned from its original position.
- 3) For the above two issues, originally approved plan for the petitioners' site has to be ratified and to be approved accordingly."

3.This order is accepted by both the petitioner and the contesting respondents namely respondent nos.2 to 4. Thus, it had become final. Therefore, in effect, there is no alignment change. The powers under Section 10 r/w section 16, exercised by respondent No.1 is very limited meant to remove the obstruction after hearing the concerned parties. Therefore, on the project per se, respondent no.1 has no much of say.

4.Now, the issue concerned is with respect to subject condition No.1 referred supra. This has to be done by respondent No.6 on the application of the petitioner made on 22.05.2017 through respondent No.7.

5.On instructions, learned Government Pleader would submit that respondent No.7 has not forwarded the application received to the respondent No.6. On fact, there is no dispute that out of 2058, 2057 have been erected.

6. The learned Senior Counsel appearing for the petitioner would submit that the conditions will have to be read along with the order. Therefore, till appropriate approval is granted by respondent No.6 on the application of the petitioner dated 22.05.2017, respondent Nos.2 to 4 shall not be permitted to enter upon and take steps to erect the tower.

7. The statement made by the learned Senior Counsel appearing for the petitioner that by the proposed change in the OSR, which is already available would be given by the petitioner, is recorded and the same will also have to be borne in mind by respondent No.6.

8.The learned counsel appearing for respondent nos.2 to 4 would submit that the change in OSR is something which the petitioner will have to obtain from respondent No.6 and thus, it has got no connection to the activities of respondent Nos.2 to 4.

9.The learned Special Government Pleader would submit that as and when the application is received from respondent No.7, respondent No.6 would do the needful.

10.This Court will have to do a balancing act by considering the interest of the petitioner on one hand and respondent Nos.2 to 4 on the other hand. The facts would reveal that the petitioner has obtained permission for construction. Now, the petitioner seeks to change the existing Open Space Reservation (OSR) to the one, over which, the corridor of the tower line would travel. It is not as if the petitioner is not providing

the OSR. This is only an administrative act. Now, 2057 towers have been erected and what is required only one has to be done.

11. On considering the above peculiar facts and keeping in mind the interest of the parties concerned, especially, the larger public, respondent No.7 is hereby directed to forward his recommendation to respondent No.6 within a period of three days from the date of receipt of a copy of this order. Thereafter, respondent No.6 shall pass appropriate orders granting the change in OSR as sought for by the petitioner, keeping in view of the observations made above and the orders passed by respondent No.1, which is acceptable to all the parties.

The writ petition stands disposed of accordingly making it clear that it is open to respondent Nos.2 to 4 to proceed in the meanwhile. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar(V.O)

//True Copy//

Sub Assistant Registrar

sli/sms  
To

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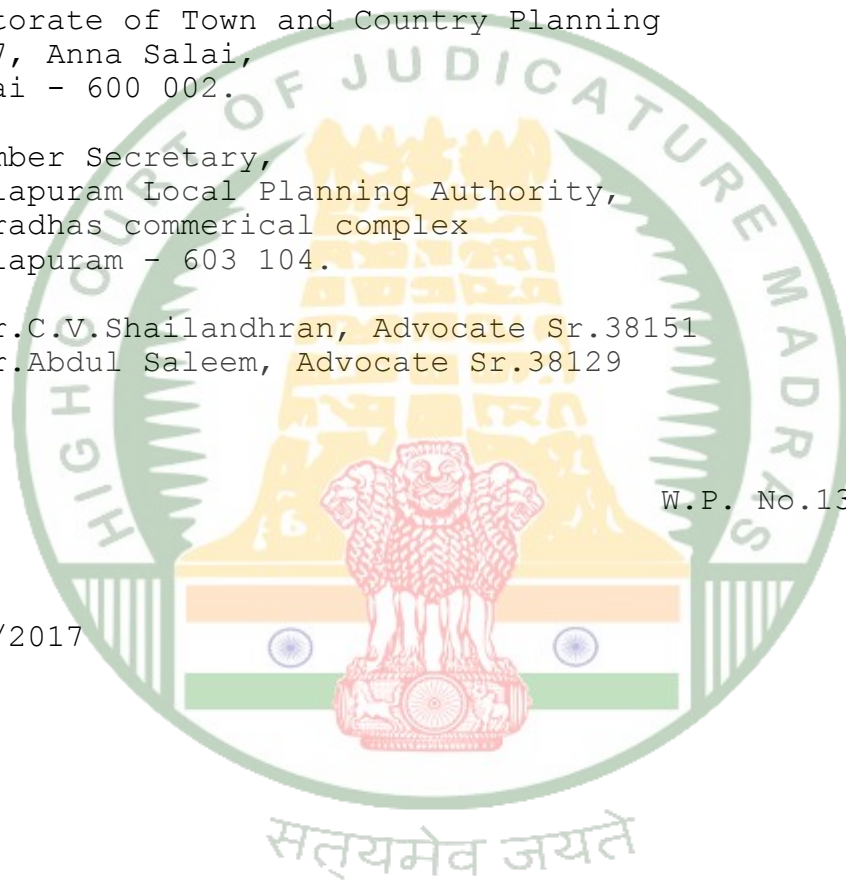
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+1cc to Mr.C.V.Shailandhran, Advocate Sr.38151

+1cc to Mr.Abdul Saleem, Advocate Sr.38129

W.P. No.13122 of 2017

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srg 29/05/2017



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