

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

CORAM

The Honourable MR. JUSTICE M.DURAI SWAMY

W.P.No.24287 of 2017
and W.M.P.No.25671 of 2017

K.Hari

[Petitioner]

Vs

1 The District Collector
Thiruvallur District Thiruvallur

2 The Superintendent Engineer
General Construction Circle-II Chennai-32

3 The Director
Transmission Projects
No.144 Annasalai
Chennai-600 002

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the 2nd respondent in Ka. No.Mey. Po./ Po. Ka. Va-II/ Chennai/ Ko.400K Vo. Minpathai/ A No.824/ 2017 dated 22.07.2017 and consequently in Ka. No.Mey. Po/ Po. Ka.Va-II/ Chennai/ Ko.400K. Vo.Minpathai./ A. No.980/ 2017 dated 16.08.2017 and quash the same as illegal arbitrary and non est in law and forbear the respondents from erecting the High Tension / Power lines (400 K.V). in the petitioner lands comprised in S. Nos.54/1 55.1 A2-1B2 situated at Nochimedu Village Poonamallee Taluk Thiruvallur District.

For Petitioner : Mr.C.Veeraraghavan

For Respondents : Mr.S.K.Rameshuwar, SC (R2&3)
Mr.O.Selvam, GA (R1)

ORDER

Mr.O.Selvam, learned Government Advocate takes notice for the 1st respondent and Mr.S.K.Rameshuwar, learned Standing Counsel takes notice for the 2nd and 3rd respondents. By consent, the main writ petition is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a writs of certiorari to call for the records of the 2nd respondent dated 22.07.2017 and the consequential order dated 16.08.2017 and to quash the same and forbear the respondents from erecting the High Tension / Power lines (400 K.V). in his lands comprised in S. Nos.54/1, 55.1 A2-1B2, situated at Nochimedu Village, Poonamallee Taluk, Thiruvallur District.

3. The learned counsel appearing for the petitioner submitted that though the petitioner has given his objections to the 1st respondent, the District Collector, on 12.07.2017 under Section 16 of the Indian Telegraph Act, 1885 (hereinafter referred to as "the Act"), even before the 1st respondent could pass any order, the 2nd respondent has passed the impugned orders.

4. Mr.S.K.Rameshuwar, learned Standing Counsel, appearing for the respondents 2 and 3 submitted that liberty may be given to the 2nd and 3rd respondents to give an application to the 1st respondent under Sections 16 & 17 of the Act, and in such an event, the 1st respondent may be directed to consider the representation given by the petitioner on 12.07.2017 and also the application to be given by the respondents 2 and 3 under the Act, within a time frame.

5. Mr.O.Selvam, learned Government Advocate, appearing for the 1st respondent submitted that the 1st respondent may be directed to consider the representation given by the petitioner and also the application to be given by the respondents 2 and 3, in accordance with law, within a period of four weeks.

6. Having regard to the submissions made by the learned counsel on either side and also taking into consideration the fact that the representation given by the petitioner on 12.07.2017 under Section 16 of the Act is pending, the 2nd respondent has passed the impugned orders even without waiting for the decision of the 1st respondent, this Court is of the view that the impugned orders are liable to be set aside.

7. Accordingly, the impugned orders dated 22.07.2017 and 16.08.2017 passed by the 2nd respondent are set aside. The respondents 2 and 3 are directed to give an application to the 1st respondent under Section 16 of the Act, within a period of one week from the date of receipt of a copy of this order and on receipt of the said application to be given by respondents 2 and 3, the 1st respondent is directed to consider the representation given by the petitioner as well as the application to be given by respondents 2 and 3 and pass orders, in accordance with law, within a period of four weeks from the date of receipt of the application given by the respondents 2 and 3. It is needless to say that the 1st respondent shall give an opportunity of hearing, both, to the petitioner as well as the respondents 2 and 3 before passing an order.

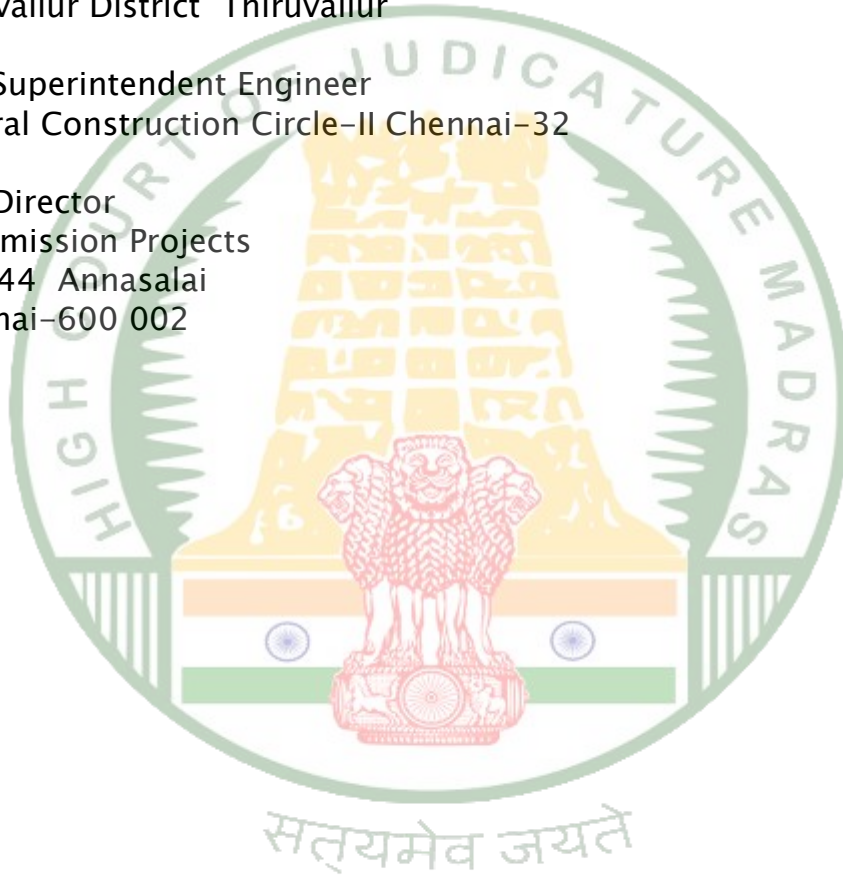
With this observation, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

11.09.2017

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To

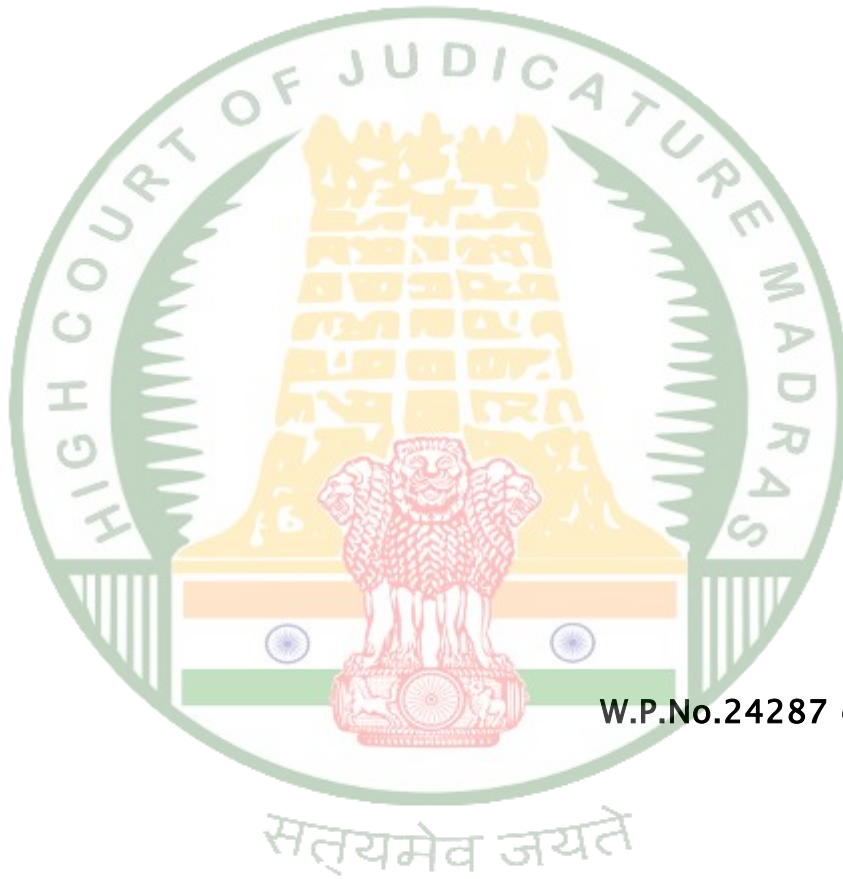
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M. DURAISWAMY,J.

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