

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:

DATED: 28.03.2017

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P. No.26810 of 2016 and

W.M.P. No.23038 of 2016

T.P.Dhamodharan

... Petitioner

Vs.

1. The Assistant Engineer (O&M),
Tamil Nadu Electricity Board,
Generation & Distribution,
S.P.B.Colony, Erode 10.

2.P.Palanisamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent dated 19.07.2016 in Letter No.:AE/O & M/ SPBC/COMPLAINT No.2421/2016 and quash the same and direct the first respondent to shift the High Tension Post Wires from the petitioner's land in S.No.138/1A3A2 in Thookavadi Village, Tiruchengodu Taluk, Namakkal District.

For Petitioner : Ms.Thenmozhi Shivaperumal
For Respondents : Mr.S.K.Rameshwar for R1
Mr.K.Gangadaran for R2

ORDER

The petitioner herein sought for shifting of High Tension Post Wires from his land in S.No.138/1A3A2 in Thookavadi Village, Tiruchengodu Taluk, Namakkal District.

2.On the direction of the first respondent, the petitioner paid the requisite fees. However, the petitioner was asked to get the consent from the second respondent, who was incidentally the vendor of the petitioner as he has given objection earlier.

3.Learned counsel for the petitioner would submit that the second respondent does not have any title over the property mentioned in the sale deed dated 03.03.1983, which is in favour of the petitioner and the entire extent has been purchased by

him and on enquiry, the Tahsildar has also given a patta in favour of the petitioner. Therefore, the order impugned cannot be sustained in the eye of law.

4.Learned counsel for the first respondent would submit that in view of the objection raised, the petitioner was asked to get no objection certificate from the second respondent.

5.Learned counsel for the second respondent would submit that it is not correct to state that the entire extent has been sold and in respect of 6 cents belonging to the second respondent, the Tahsildar has wrongly given the patta in favour of the petitioner for which a writ petition has been filed and an order of injunction was granted not to alienate six cents alone in W.P. No.41274 of 2016, which is still pending consideration.

6.A patta issued by the Revenue Tahsildar is not a document of title. The question as to whether the boundary would prevail over the extent is a matter to be decided by the Civil Court. The fact that the second respondent was the vendor of the petitioner decades ago is not in dispute. The pendency of W.P. No.41274 of 2016 along with the interim order not to alienate six cents alone will not have any bearing to the present writ petition. What the petitioner wanted is shifting of the High Tension Post Wires from his land. This does not have any bearing over the title inter se that too in the absence of any Civil Suit. Accordingly, the order impugned is hereby set aside and consequently the first respondent is directed to effect the shifting as per law within a period of six weeks from the date of receipt of a copy of this order.

7.It is made clear that as observed earlier, this petition is only with respect to the shifting of High Tension Post Wires alone. If the second respondent establish before the competent Court as his title, it is well open to him to approach the first respondent for necessary orders.

8.With the above observation, this writ petition is allowed. No costs. Consequently, connected W.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

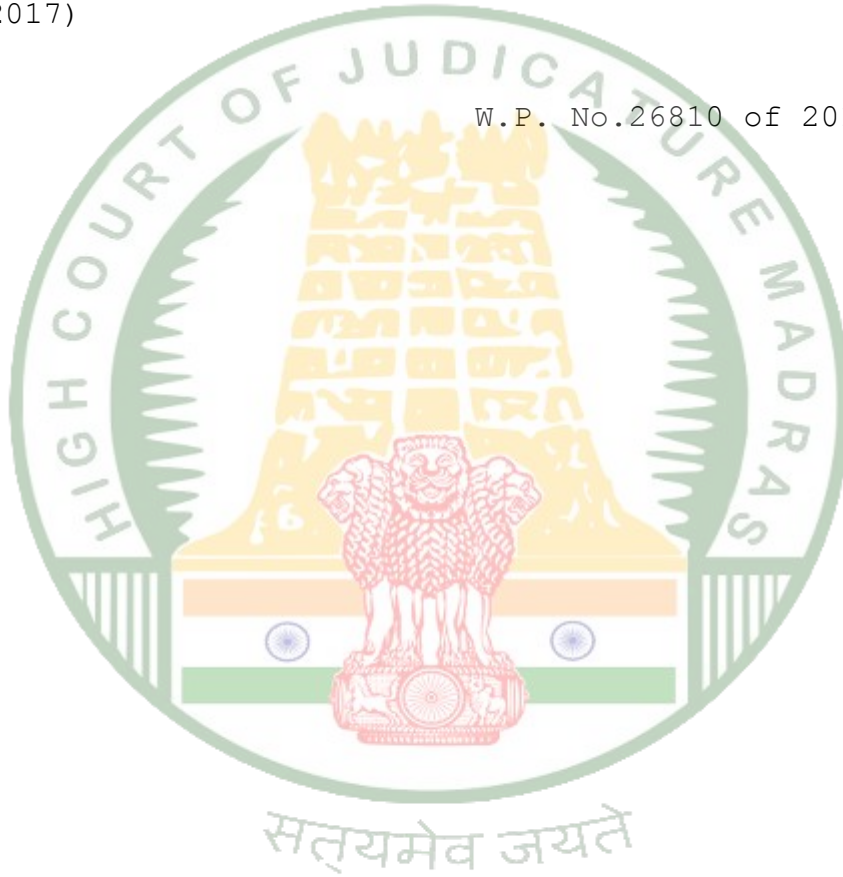
To

The Assistant Engineer (O&M),
Tamil Nadu Electricity Board,
Generation & Distribution,
S.P.B.Colony, Erode 10.

+lcc to Mr.Thenmozhi Sivaperumal, Advocate, S.R.No.19245

pvs (CO)
md(11/04/2017)

W.P. No.26810 of 2016



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