

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, THE ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE R.MAHADEVAN

Writ Appeal No.1006 of 2016

J.Malathi

.. Appellant

Vs.

1. The Chairman
Tamil Nadu Electricity Board
Tamil Nadu Generation & Electricity
Distribution Corporation Ltd.
Anna Salai
Chennai 600 002.
 2. The Superintending Engineer
General Construction Circle (G.C.C)
Tamil Nadu Electricity Board
Tamil Nadu Generation & Electricity
Distribution Corporation Ltd.
Guindy Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai 600 032.
 3. The Executive Engineer
Tamil Nadu Electricity Board (G.C.C)
Tamil Nadu Generation & Electricity
Distribution Corporation Ltd.
Guindy Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai 600 032.
- .. Respondents

Appeal under Clause 15 of the Letter Patent filed against the order of the learned single Judge dated 14.3.2016 made in W.P.No.1762 of 2016.

Writ Petition filed u/a.226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to disburse compensation to the tune of Rs.8,00,000/- to the petitioner for taking over the petitioners house site in Plot No.59 Sri Veeraragava Nagar Silavattam Village, Maduranthagam Taluk, Kancheepuram District, situated in S.Nos.132/6B and 132/8 to the extend of 1240 Sq.Feet and in S.Nos.132/8 and 132/7C to the extend of 1330 Sq.Feet totally 2570 Sq.Feet.

For Appellant : Mr.T.E.Badrinath
For Mr.C.Prakasam

For Respondents : Mr.S.K.Rameshuwar

J U D G M E N T

(Delivered by the Hon'ble Acting Chief Justice)

The writ appeal is directed against the order of the learned single Judge dated 14.3.2016 dismissing the writ petition, namely W.P.No.1762 of 2016.

2. Heard Mr.T.E.Badrinath, learned counsel for the petitioner and Mr.S.K.Rameshuwar, learned Standing Counsel for the respondent Board.

3. The respondent Board had erected towers in the land belonging to the appellant. Therefore, seeking compensation, the appellant filed writ petition. The claim of the appellant was resisted by the respondent Board on the ground that the Board had not taken over the land of the appellant and that the appellant continues to be the owner of the land even after erection of towers and that as per Section 10(d) of the Indian Telegraph Act, 1985, compensation could be granted only if any damage is caused.

4. The learned single Judge, taking note of the submission that the land in question was a housing plot forming part of an approved lay out, disposed of the writ petition, directing the appellant to submit a representation to the third respondent and thereafter, directing the third respondent to consider the representation of the appellant and to pass orders within six weeks.

5. According to the respondent Board, the land in question is not a housing site forming part of an approved layout, but it is a barren land and therefore, compensation cannot be granted to the appellant. But, in view of the fact the respondent Board having utilised the land of the appellant by erecting towers, thereby denying the right of the appellant not to utilise the said land in toto, the respondent Board cannot contend that no compensation need be granted to the appellant. Therefore, we are of the considered view that some compensation must be granted to the appellant for the usage of the land by the Board.

6. In view of the above, we direct the respondent Board to pay compensation to the appellant, for erection of towers in the land of the appellant, within a period of three months

from the date of receipt of a copy of this order. Accordingly, this writ appeal is allowed. There shall be no order as to costs. Consequently, CMP No.13101 of 2016 is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Chairman
Tamil Nadu Electricity Board
Tamil Nadu Generation & Electricity
Distribution Corporation Ltd.
Anna Salai, Chennai 600 002.
2. The Superintending Engineer
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+1 cc to Mr.S.K.Rameshwar, advocate, sr.12929.

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krd v22/3

सत्यमेव जयते

W.A.No.1006 of 2016

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