



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.P. (MD) No.22472 of 2017
and
W.M.P. (MD) No.18778 of 2017**

M/s.Welspun Renewable Energy Private Ltd.,
Rep. by its Deputy General Manager,
J.David Joe Kamaraj,
'Trinity' No.115, 6th Cross Street,
Moogambhigai Nagar,
K.T.C.Nagar,
Tirunelveli-627 081.

: Petitioner

Vs.

1. The District Collector,
Tirunelveli District.

2. The Tahsildhar,
Mannur Taluk,
Tirunelveli District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus, directing the Respondents not to remove the Solar Panel situated in Survey Nos.829, 834, 835, 819, 818, 2026, 2027, 2032, 758, 755, 754, 753, 752, 699 Pirancheri, Manur Taluk, Tirunelveli District and consequently, direct the Respondents to follow by the earlier changes made by their office in the respective Survey Numbers in Pirancheri Village, Manur Taluk, Tirunelveli District.

For Petitioner : Mr.S.Karthik

For Respondents : Mr.T.R.Janarthanan,
Additional Government Pleader

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

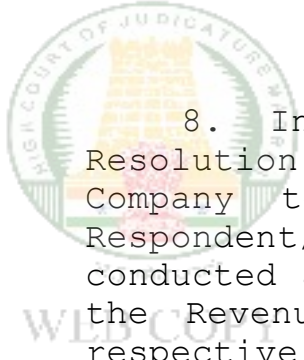
The Petitioner has come forward with the present Writ Petition seeking for the issuance of a Writ of Mandamus, directing the Respondents not to remove the Solar Panel situated in Survey

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3. No counter is filed on behalf of the Respondents.

5. According to the Petitioner, Tirunelveli Unit was started in the year 2014 and the Company had decided to harvest the solar energy to electric power and improve downtrodden, backward area, like Tirunelveli. Therefore, the lands were purchased by the Petitioner/Company from numerous persons during the year 2015. The Petitioner/Company is having more than 320 Acres of land and they presented necessary application before the Respondents and are interested in creating a new renewable energy from the solar power, etc. As a matter of fact, the Eco-friendly Industry, like Solar Farm was erected by the Petitioner/Company, based on the industrial policy of the Government of Tamil Nadu.

7. The version of the Petitioner is that in respect of Pirancheri Village S.F.Nos.829, 834, 835, 818, 819, 2026, 2027, 2032, 758, 755, 754, 753, 752 and 699 etc., of Manur Taluk, Tirunelveli District, the public pathway is situated in the middle of the property and the extent of pathway is 0.78.0 Hectares and that the Field Engineer and respective officials have pointed out that the said pathway, which is running in the middle of the property, would affect the solar power and, therefore, the Company and the public also will be affected by electrical lines among the pathway and, therefore, the Petitioner/Company had decided to fence the boundary and requested the Government and Villagers to change the pathway in the border of the said property.

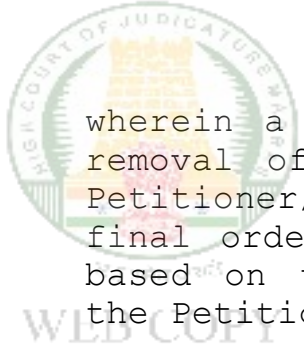


8. In fact, Pirancheri Village Panchayat had passed a Resolution on 02.10.2015 (Vide Resolution No.28) to allow the Company to change the pathway in patta lands. The second Respondent/Tahsildar, Mannur Taluk, Tirunelveli District, had conducted a field survey on numerous dates and based on the same, the Revenue Department had re-drawn the pathway route in the respective survey numbers. To the effect of alternative pathway, the Petitioner/Company had provided excess land for the above said pathway nearly 1.05.70 Hectares in the said place. Based on the survey records, the official on 03.11.2016 had given recommendation to the superior and by drawing map also, altered the same on 28.12.2016. In short, the entire process was completed and a pacca pathway was created and the pathway is developed by the Petitioner/Company and only after that, the Company had fenced the Phase-II area. The production of electricity operation had commenced and supply is made to the Tamil Nadu Electricity Board.

9. When that be the fact situation, on 22.08.2017, the second Respondent/Tahsildar, Mannur Taluk, Tirunelveli District, had issued a notice to the Petitioner/Company stating that the Cart Track was encroached by the Petitioner/Company and an explanation was sought for from the Company. The Petitioner/Company had received the notice on 21.11.2017. On 27.11.2017 the Manager of the Petitioner/Company made his appearance before the second Respondent/Tahsildar, Mannur Taluk and the second Respondent, according to the Petitioner, is urging the Petitioner/Company to remove the solar panel which is located in the patta land.

10. At this juncture, the Learned Counsel for the Petitioner brings it to the notice of this Court that a third party filed a Writ Petition in W.P.(MD)No.6232 of 2017 before this Court seeking to dispose of his representation for removal of encroachment made in the cart track and this Court had passed an order directing the Respondents therein to consider the representation, within three months, of course, after issuing notice to all the Respondents.

11. In response, the Learned Additional Government Pleader appearing for the Respondents points out that the notice dated 22.08.2017 issued by the second Respondent/Tahsildar, Mannur Taluk, addressed to the Petitioner/Company (issued under Section 7 of the Tamil Nadu Land Encroachment Act, 1905) speaks of the Cart Track at Pirancheri Village in Survey Nos.829, 834, 835, 819, 818, 2026, 2027, 2032, 758, 755, 754, 753, 752 and 699. The total extent is mentioned as 0.78.0 Hectares and the same is in enjoyment by way of solar panel. In reality, the Petitioner/Company was required to submit his explanation before 30.08.2017 in regard to the removal of encroachment in question, failing which, the Company was informed that articles/materials were to be removed as stated under Section 6 of the Act, 1905. Further, it is brought to the notice of this Court that the Petitioner/Company had furnished a reply to the second Respondent on 27.11.2017,



wherein a request was made to stop the action in regard to the removal of encroachment, as per the representation made by the Petitioner/Company on 08.12.2016. It is not in dispute that no final orders have been passed by the second Respondent/Tahsildar based on the representation/reply dated 27.11.2017 submitted by the Petitioner/Company.

12. Considering the fact that the Petitioner/Company's reply dated 27.11.2017 to the notice dated 22.08.2017 (issued by the second Respondent) is pending for consideration and this Court, without expressing any opinion on the merits of the matter and also not delving deep into the subject matter in issue, at this stage, simpliciter, directs the second Respondent/Tahsildar, Mannur Taluk, Tirunelveli District, to look into the representation/rely of the Petitioner/Company dated 27.11.2017, within a period of one week from the date of receipt of copy of this order. Thereafter, if the second Respondent finds any substance in the representation/reply of the Petitioner dated 27.11.2017, then, he is to provide a requisite opportunity to the Petitioner/Company by adhering to the Principles of Natural Justice and to issue notice not only to the Petitioner but also to the others concerned, if any, in the subject matter in issue and to pass a reasoned speaking order on merits, adverting to all the Factual and Legal Pleas raised by the Petitioner/Company in its representation/reply dated 27.11.2017, within a period of three weeks thereafter. It cannot be gainsaid that the Petitioner/Company shall furnish/file/produce copy of necessary records before the second Respondent to substantiate its claim. It is abundantly made quite clear that till final orders are passed within the time determined by this Court as afore-stated, no coercive steps shall be taken against the Petitioner by the second Respondent in the subject matter in issue or by anyone in any manner whatsoever.

13. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Tirunelveli District.



2. The Tahsildhar,
Mannur Taluk,
Tirunelveli District.

+1 cc TO Mr.S.Karthik , Advocate in SR No. 91673

+1 cc TO The Special Government Pleader in SR No. 91965

SML

AE/SKN RSK/SAR1/20.12.2017/5P/5C

Order made in
W.P. (MD) No.22472 of 2017
Dated: 08.12.2017