

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.5271 of 2018
and
W.M.P.No.6472 of 2018

R.Chakravarthy

.... Petitioner

Vs.

1. The District Collector,
Krishnagiri District,
Bangalore Highways Road,
Krishnagiri - 635 001.

2. The Chief Engineer,
Tamilnadu Transmission Corporation,
NPKRR Maligai,
No.800, Anna Salai,
Chennai - 600 002.

3. The Assistant Executive Engineer,
Tower Line Construction,
TANTRANSCO,
110/33 KV-11-KV Sub Station,
Royakottah Road,
Krishnagiri - 635 002.

...Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondent to consider the petitioner's proposal dated 03.08.2017 by accepting the alternative location proposed by him to erect the 230 K.V. High Tension towers in his land in Survey No.314/1B, 314/2A of Marudhanadapalli Village, Shoolagiri Taluk & Village, instead of the present plan of installation of 230 K.V.High Tension towers suggested by the 2nd and 3rd respondents.

For Petitioner : Mr.N.Chandrasekaran
for Mr.K.Mahendran

For Respondents : Mr.R.Govindasamy,
Special Government Pleader for R1
Mr.Abdul Saleem
Standing counsel for R2 and R3

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the first respondent and Mr.Abdul Saleem, learned Standing counsel takes notice for the 2nd and 3rd respondents. By consent of the parties, the main writ petition is taken up for final disposal.

2. The petitioner seeks for a mandamus to direct the respondent to consider the petitioner's proposal dated 03.08.2017, wherein and whereby, he has offered an alternative location to the proposed erection of the 230 K.V. High Tension towers in his land in Survey No.314/1B, 314/2A of Marudhanadapalli Village, Shoolagiri Taluk & Village, instead of the present plan of installation of 230 K.V.High Tension towers as suggested by the 2nd and 3rd respondents.

3. Heard Mr.N.Chandrasekaran learned counsel appearing on behalf of the petitioner, learned Special Government Pleader appearing for the 1st respondent and the learned Standing Counsel appearing for the 2nd and 3rd respondents.

4. The grievance of the petitioner before this Court is that when already two towers are erected in the petitioner's land, the attempt of the 2nd and 3rd respondents to erect one more tower in between those two towers will spoil the entire utilisation of the land by the petitioner and therefore, the alternative site shown by the petitioner should be considered by the 2nd and 3rd respondents. But the fact remains that the petitioner has already approached the Civil Court and filed a suit in O.S.No.148/2017 seeking for mandatory and permanent injunction similar to the relief sought for in this writ petition. Therefore, the petitioner cannot maintain both the proceedings parallelly.

5. Learned counsel for the 2nd and 3rd respondents, based on instruction submitted that the objection raised by the petitioner is pending before the 1st respondent by way of proceedings under Section 16 of the Indian Telegraph Act, 1885, and however, the first respondent is not in a position to pass any order on that application in view of the pendency of the above said suit.

6. At this juncture, the learned counsel for the petitioner, based on instructions, submitted that the petitioner would withdraw the said suit immediately and report the same before the 1st respondent so that the 1st respondent can consider the grievance of the petitioner and pass appropriate orders.

7. Considering the above stated facts and circumstances and considering the undertaking given by the petitioner before this Court through his counsel that he would withdraw the said suit and report the same before the 1st respondent, this Writ petition is disposed of as follows:

(a) The petitioner shall file an appropriate application before the District Munsif Court, Hosur, and seek for withdrawal of the said suit in O.S.No.148/2017 within a period of two weeks from the date of receipt of a copy of this order.

(b) The learned District Munsif, Hosur, shall pass orders on such application within a period of two weeks from the date of receipt of such application.

(c) On such withdrawal of the suit, the petitioner shall inform the same to the 1st respondent within seven days from the date of the order passed by the District Munsif Court.

(d) On receipt of such information from the petitioner, the 1st respondent shall consider the objection raised by the petitioner and pass orders on the same on merits and in accordance with law by exercising his power under Section 16 of the Indian Telegraph Act, 1885, after hearing the petitioner and the 2nd and 3rd respondents. Such exercise shall be done by the 1st respondent within a period of four weeks from the date of receipt of such information.

(e) Till an order is passed by the 1st respondent, the 2nd and 3rd respondents shall maintain status quo as on today.

6. It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner as it is for the first respondent to consider and decide. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Vsi

To

1. The District Munsif, Hosur

WEB COPY

2. The District Collector,
Krishnagiri District,
Bangalore Highways Road,
Krishnagiri - 635 001.

3. The Chief Engineer,
Tamilnadu Transmission Corporation,
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No.800, Anna Salai,
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TANTRANSCO,
110/33 KV-11-KV Sub Station,
Royakottah Road,
Krishnagiri - 635 002.

+1cc to Mr.Abdul Saleem, Advocate Sr.No.17977

+1cc to Government Pleader Sr.No.18728

+1cc to Mr.A.Smirithi, Advocate Sr.No.18387

+1cc to Ms.A.Smrithi, Advocate Sr.no.18387 dt.26.3.2018

sm:12.3.2018

W.P.No.5271 of 2018

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