

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.19 of 2017
and
C.M.P.No.369 of 2017

- 1 THE SUPERINTENDING ENGINEER
TAMILNADU GENERATION OF ELECTRICITY
DISTRIBUTION COMPANY (TANGEDCO)
TATABAD COIMBATORE 641 012
- 2 THE CHIEF ENGINEER
ERODE ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION OF ELECTRICITY
DISTRIBUTION COMPANY (TANGEDCO)
EVN ROAD ERODE 638 009
- 3 THE CHAIRMAN
TAMILNADU ELECTRICITY BOARD
TANGEDCO
144 ANNA SALAI CHENNAI 600 002
- Appellants
- Versus
- 1 K.SELLAMUTHU GOUNDER
2 C.BALASUBRAMANI
3 N.PALANISAMY GOUNDER
4 P.SAMIAPPAN
5 R.MUTHU KRISHNAN
6 V.KULANTHAVEL
7 ARUNAGIRI
8 S.VELUSAMY
9 K.DINESHKUMAR
10 P.KULANDAISAMY GOUNDER
11 V.THULASIMANI
12 P.NATARAJ
13 SARASWATHI
14 NACHIMUTHU
- 15 THE DISTRICT COLLECTOR-CUM-
DISTRICT MAGISTRATE
ERODE DISTRICT ERODE.

16 THE CHIEF ENGINEER
POWER GRID CORPORATION OF INDIA LTD.
17/4G VIVEKANANDAR STREET
GANDHI NAGAR
NACIYANOOR ROAD ERODE.

Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 19.7.2016 passed in W.P.No.30940 of 2015 on the file of this court.

Prayer in WP.No.30940/2015:Writ petition is filed under Article 226 of Constitution of India praying for the issuance of a writ of mandamus directing the respondents to implement the proceedings of the 3rd respondent in Lr. No. Mo. Po/Po. Ka. Va/ Kovai/ Say.Po/Pothu/ Ko.manu/ Aa. No. 2638 dt 15.7.2015 and thereby adopt the existing alternative way in the Government land along Noyyal River to install the Electricity Towers No. 34 to 47 to reach the proposed Electric Sub Station at Veppampalayam Erode District without insisting the three conditions contained therein to be accepted by the petitioners.

For appellant : Mr.Manishankar,
Additional Advocate General
assisted by Mr.S.K.Raameshuwar

For RR1 to 14 : Dr.R.Gouri,

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Additional Advocate General for the appellants and the learned counsel appearing for respondents 1 to 14.

2. The writ appeal has been filed by the Tamilnadu Generation of Electricity Distribution Company (TANGEDCO) challenging the order passed by the learned Single Judge in quashing the conditions imposed by the appellants upon the writ petitioners-agricultural land owners for skipping their agricultural lands from the purview of laying high tension electricity towers and take an alternative route for the same.

3. It appears that the appellants had proposed to establish a new Electric Sub Station with 230 KV capacity at Veppampalayam Village, Erode District and in that regard, they had proposed to draw 110 KV electricity line from the already existing 110 KV Erode-Pugalur Electricity line by Ramanathapuram-Anjur Village by installing 100 electricity towers via Ramanathapuram-Anjur Village. In this connection, since the towers were sought to be erected in the agricultural lands of the writ petitioners, they had suggested for alternative route viz., the Banks of the Noyyal River to save the agricultural activities, by way of their representation dated 5.1.2009.

4. The appellants appear to have imposed the following three conditions for accepting the alternative route:-

i) The writ petitioners have to obtain No Objection Certificate from the land owner of the patta land on which the electricity tower has to be erected.

ii) Since the alternative route covers the banks of Noyyal, the writ petitioners have to make necessary arrangements to obtain permission from the Revenue Department and the Public Works Department.

iii) The additional expenses that would occur due to the consideration of the alternative route has to be borne by the writ petitioners.

5. The learned Single Judge, having appreciated the factual aspects that the original route proposed by the Department is about 3962 metres and affecting the writ petitioners' agricultural lands whereas the proposed alternative route covers only 3190 metres alone and thereby saving the expenditure upto 772 metres, which, in fact, would reduce the total expenditure, held that there is no question of demanding the writ petitioners to bear any additional expenses it is the bounden duty of the authorities alone to seek for any No Objection Certificate required from any patta holders or from the Revenue and Public Works Departments.

6. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the basic amenity of electricity is very much required to be produced and carried to the places required, but, it should not be at the cost of poor agricultural farmers. The learned Single Judge has also logically analysed the impact of considering the alternative route for erecting the electricity towers and found it as a cost-efficient one considering the reduction of 772 metres in the total extent of coverage. Even otherwise, it may not be fair on the part of the authorities to shift any burden, either monetary or laborious, on the agricultural land owners.

7. Further, we find that in the event of erecting of electricity towers carrying high tension wires, it would not only diminish the value of the land, but, also prevent the farmers to cultivate and the probability of hazardous events and mishaps cannot be ignored. Considering the entire facts and circumstances of the case, especially the interest of the large number of poor farmers, and also the fact that a cost-effective alternative route, covering Government barren land, as suggested, is available, it is for the appellants to proceed with the alternative route as directed by the learned Single Judge. If the appellants are still not inclined to consider the alternate route, as suggested, we make it clear that the appellants can do so by paying market value of the land to the affected agricultural land owners.

8. At this juncture, Mr.Mani Shankar, learned Additional Advocate General, has produced a copy of the Government Order in G.O.(Ms)No.63, Energy (A1) Department, dated 22.11.2017, and submitted that the said G.O. has been passed subsequent to the order passed by the learned Single Judge and based upon the guidelines issued by the Central Government, which governs the present case also and therefore, there is no need for issuing any direction to pay the market value of the land.

9. Having perused the said Government Order and understood the scope of the said G.O., we are not convinced with the submission made by the learned Additional Advocate General. The agricultural lands are not only the livelihood of the poor agricultural farmers but, also the last hope of the public in large, in the present trend of development of other fields. Relying upon mere technicalities, such a very basic requirement of the day cannot be ignored, especially, when an alternative route is available for erecting the electricity towers. Therefore, it is for the appellants to consider the alternative route as suggested or to opt for paying compensation as per market value. We do not find any hope for interference with the order passed by the learned Single Judge. Accordingly, the writ appeal filed by the TANGEDCO is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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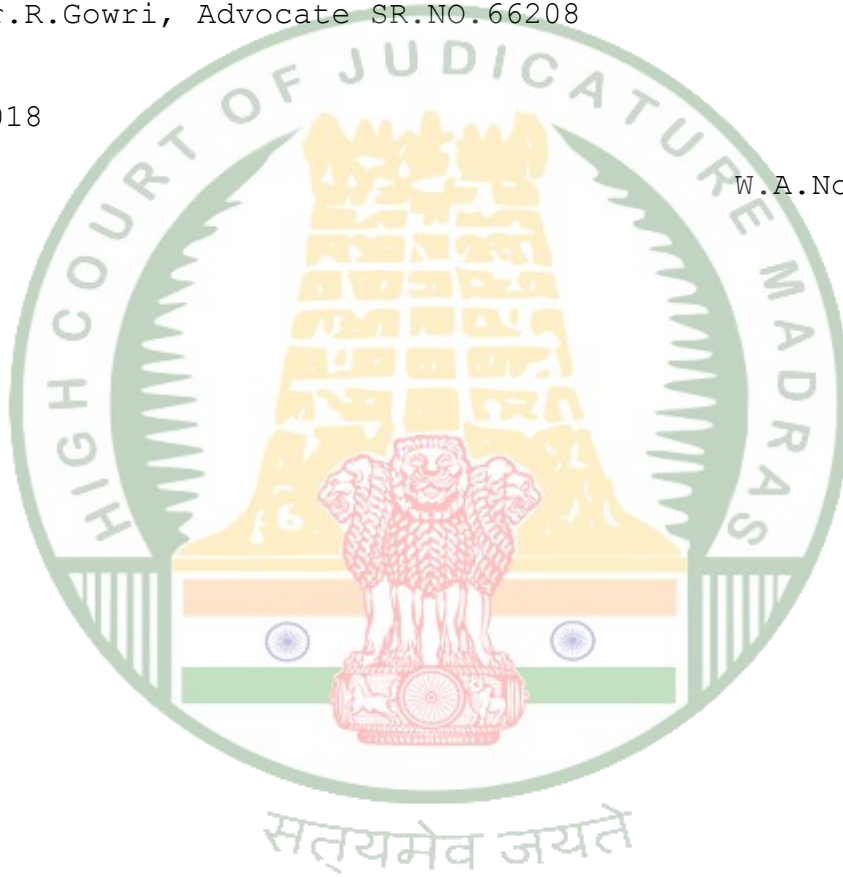
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+1cc to Mr.S.K.Raameshuwar Standing Counsel for 66391
+1cc to Dr.R.Gowri, Advocate SR.NO.66208

VSNII(CO)
sm:1.11.2018

W.A.No.19 of 2017



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