



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.01.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.13423 of 2017
and
WMP (MD) No.10495 of 2017

1.G.Rathinasabapathy
2.R.Palanichamy
3.Smr.R.Revathy
4.Smr.P.Indhumathi

.... Petitioners

Vs.

1.The Union of India,
rep. by Ministry of Power,
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110 001.

2.The Power Grid Corporation
rep. by its Executive Engineer/
Assistant General Manager
Tenkasi Road, Abishegapatti,
Tirunelveli.

3.The District Collector,
Tirunelveli District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to pay fair compensation to the petitioner for the lands acquired/proposed for erection of High Tension Towers for 46 (meters (3 acres) in the middle of the petitioners' patta lands in S.Nos.105/4A, 91/2A1, S.No.104/1B & 105/1B measuring 11.16 acres in Thirupathi Karisalkulam Village, Tirunelveli and consequently direct the respondents to pay compensation for diminishing the value of the remaining extent therein together with interest in accordance with law.

For Petitioners : Mr.Veera Kathiravan, senior counsel
for M/s.Veera Associates

For Respondents : Mr.G.Rajaraman for R1
Mr.Jayesh B. Dolia for R2
Mr.K.Saravanan, G.A. For R3



O R D E R

Heard the learned senior counsel for the petitioner and the learned counsel for the respondents.

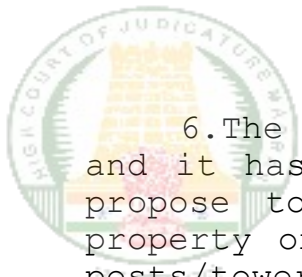
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2.The case of the petitioners is that they are owning the lands measuring an extent of 11.16 acres in S.Nos.105/4A, 91/2A1, S.No.104/1B & 105/1B in Thirupathi Karisalkulam Village, Tirunelveli District. They are running a spinning mill. The subject lands measuring 11.16 acres is immediately adjoining the said spinning mill. The petitioners have mortgaged the title documents in respect of said lands for raising funds from Tamil Nadu Mercantile Bank. They are aggrieved by the move of the Power Grid Corporation to erect High Tension Towers cutting across their lands. According to the petitioners, if the second respondent Corporation is permitted to erect High Tension lines over their lands, the lands will become utterly unfit for future industrial use. The petitioners therefore want the respondents to acquire the lands and pay compensation in terms of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Re-Settlement Act, 2013.

3.The learned senior counsel appearing for the petitioners would strongly contend that without obtaining prior consent of the petitioners, the Power Grid Corporation cannot instal transmission towers on their lands. He had relied on the Division Bench decision of the Patna High Court reported in *AIR 2011 Patna 83 - (Power Grid Corporation of India Ltd. V. Ram Naresh Singh)*. The learned senior counsel also took this Court through the various provisions of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Re-Settlement Act, 2013.

4.The learned counsel appearing for the second respondent submitted that the petitioners have proceeded on a fundamental misconception. The second respondent Corporation does not propose to acquire the petitioners' land while carrying out the task of construction of extension of Kudankulam APP-Tirunelveli 400 KV Quad D/C Line to Tuticorin Pooling Station under connectivity for Kudankulam 3 & 4 (2 X 100 mw) with Inter State Connectivity Transmission System.

5.The second respondent is a Government of India enterprise and a Central Transmission Utility as envisaged under Section 38 and 40 of the Electricity Act 2003. It is a deemed Transmission Licensee. Sections 14 and 164 of the Electricity Act 2003 are particularly relevant. Pursuant to the aforesaid statutory provisions, the petitioner has been authorised to exercise powers vested in a telegraphic authority. In view of Section 10 of the Indian Telegraphic Act, 1885, it is open to the second respondent Corporation to exercise the powers that are conferred on a telegraphic authority. If in the process, any damage is caused to the land owner, it is open to the affected party to invoke Section 16 of the said Act for claiming compensation.



6.The second respondent had filed a detailed counter affidavit and it has been highlighted therein that the Corporation does not propose to acquire any right other than that of User over the property on which the Corporation places its transmission lines or posts/towers.

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7.The learned counsel for the second respondent highlighted public interest in the matter. The project runs over 66.093 km and as many as 188 towers are to be installed on an estimated cost of Rs.184.36 crores. The work commenced on 01.06.2016 and the project was to be commissioned by 31.07.2017. Except the works on the petitioners' land, the entire project is almost over. It has been submitted in the counter affidavit that all the technical aspects of the matter were duly taken into account and only after exploring all possible options, it was proposed to erect the towers and draw the lines over the petitioners' lands. Anxieties expresses by the writ petitioners have been addressed in the counter affidavit.

8.After hearing the rival submissions, this Court has to unhesitatingly conclude that there is absolutely no merit either in the writ petition or in the submissions advanced by the learned senior counsel appearing for the petitioner. In the light of the decision reported in (2017) 5 SCC 143 - (*Power Grid Corporation of India Limited V. Century Textiles & Industries Limited*), none of the submissions can hold good. Though this Court may sound rather cryptic, it cannot help remarking that this writ petition deserves to be summarily dismissed, in view of the aforesaid decision.

9.The petitioners want a direction for payment of fair compensation in terms of the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Re-Settlement Act, 2013. This prayer is again misconceived as there is no proposal to acquire the petitioners' land. It is for the writ petitioners to workout their rights in terms of Section 16 of Telegraphic Act, 1885.

10.This writ petition is dismissed accordingly. The interim order of statusquo earlier granted stands vacated forthwith. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

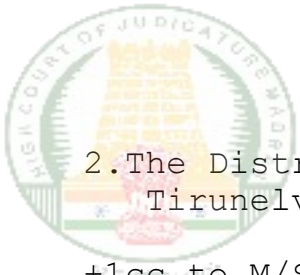
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Union of India,
Ministry of Power,
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110 001.



2.The District Collector,
Tirunelveli District.

+1cc to M/S.VEERA ASSOCIATES,Advocate,SR. 42591

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