

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.11195 of 2012

N.Nagamani

..Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
No.811, Anna Salai,
Chennai.
2. The Superintending Engineer,
Erode Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Surampatty, Erode.
3. The Junior Engineer,
Distribution/South Tamil Nadu
Electricity Board, Salaipudur,
Kodumudi, Erode Taluk & District.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to shift the transformer erected in the petitioner's land situated in S.No.518/3 at Kolathupalayampudur, Kodumudi Post, Erode Taluk & District and consequently pay the compensation of Rs.2.5 Lakhs to the petitioner.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.S.K.Raameshuwar,
1 to 3 Standing Counsel

ORDER

The present Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to shift the transformer erected in the petitioner's land situated in S.No.518/3 at Kolathupalayampudur, Kodumudi Post, Erode Taluk & District with a consequential direction, directing the respondents to pay the compensation of Rs.2.5 Lakhs to the petitioner.

2. Learned Counsel appearing for the petitioner submitted that the Tamil Nadu Electricity Board erected a transformer in the middle of the petitioner's land, as a result, frequent fire accidents took place causing damages to the standing crops. At one point of time, due to the fire emanated from the transformer, the entire agricultural crops were damaged and the petitioner was also met with heavy loss due to the said fire. Therefore, he made a request to the respondents either to shift the transformer to some other place or to pay the compensation. But the respondents have not taken any action. Hence the petitioner has given a representation dated 28.2.2012 to the respondents. The said representation has not been considered. Hence the present Writ Petition.

3. Initially, a detailed Counter Affidavit has been filed by the respondents. Thereafter, during the pendency of the Writ Petition, the respondents have also filed two additional counter affidavits.

4. The main counter affidavit filed by the respondents shows that the distribution transformer was located in the corner of the site of S.F.No.518/3 Kodumudi Village, 40 years ago. At the time of erection of the Distribution Transformer, there was no objection and no petition was received from any land owner. Even every month transformer maintenance as well as quarterly maintenance are properly being done by the respondents staff. When the respondents, till date, had not failed from maintaining the transformer, they cannot put the blame on the respondents that there was a fire emanated from the transformer. Generally, a farmer after getting his sugarcane and turmeric crops, to cultivate next year crops, they used to fire the agricultural dust which is also used as a fertilizer. When it is being done by the petitioner and other farmers, the petitioner cannot come to this Court stating that the fire accident has been caused by the Distribution Transformer and that has caused damage to the standing crops.

5. In one of the additional counter affidavits filed by the respondents, the respondents have stated that as per the Regulation 5(6) of the Supply Code of Tamil Nadu Electricity Regulatory Commission, the cost of shifting service line, structure and equipment shall be borne by the consumer. Hence the work can be executed only after payment of the cost of shifting works, approximate amount is Rs.1,50,000/-.

6. At this stage, Mr.C.Praksasm, learned Counsel for the petitioner submitted that since the Distribution Transformer was located 40 years ago in the land-in-question and at the time of erection of the same, there being no objection by the petitioner, now the petitioner wants to shift the said Distribution Transformer to any other place.

7. Under such circumstances, this Court is of the view that if the petitioner wants to shift the Distribution Transformer from the existing place to any other place, as per the Regulation 5(6) of the Supply Code of Tamil Nadu Electricity Regulatory Commission, he has to meet out the expenditure for such shifting and only thereafter, the respondents can undertake the process of shifting the transformer. Therefore, it is for the petitioner to move an application giving undertaking to meet out the shifting of the distribution transfer from the existing place to any other place. If any such application is made, it is for the respondents to consider the same.

8. With this observation, the Writ Petition is disposed of. No costs.

tsi

Sd/-
Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Electricity Board,
No.811, Anna Salai,
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3. The Junior Engineer,
Distribution/South Tamil Nadu
Electricity Board, Salaipudur,
Kodumudi, Erode Taluk & District.

+1cc to Mr.S.K.Raameshuwar, Advocate, SR.No.84165/19
+1cc to Mr.C.Prakasam, Advocate, SR.No.83931/19

W.P.No.11195/2012

Kak(24/10/2019)