

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.20233 of 2013

P.Pichaikannu

.. Petitioner

Vs

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle,
Basin Bridge Power House,
Chennai - 12.

3.District Collector,
District Collectorate,
Thiruvallur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the first respondent ie. The Chairman, Tamil Nadu Electricity Board, Chennai, to consider the representation dated 28.11.2012 sent by the petitioner.

For petitioner : Mr.T.Balachandar

For R1 : Mr.Abdul Saleem,
Standing Counsel

For R3 : Mr.V.Shanmugha Sundaram, Spl.GP

For R2 : Disd. Vide order dated 03.06.2015

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ORDER

The petitioner has filed this writ petition seeking for issuance of a writ of mandamus to direct the first respondent / the Chairman, Tamil Nadu Electricity Board (TNEB), to pass orders on his pending representation dated 28.11.2012 requesting for enhancement of compensation for

erection of 230KV transmission tower on his land bearing plot Nos.8 and 8A in Survey No.30/1b and 4c, situated at VOC Nagar, Ayappakkam, Thiruvallur District, by the respondent Board.

2. Learned counsel for the petitioner submitted that the respondent Board has erected 230KV transmission tower in the above said land belonging to the petitioner and aggrieved against the same, when writ petition was filed, the same was allowed in favour of the petitioner, but, in the writ appeal, the order passed in the writ petition was reversed with a direction to the petitioner to approach the authorities for claiming compensation. Thereafter, when he made representation dated 07.05.2012, the respondents have paid the compensation to the tune of Rs.77,760/- vide cheque No.20723, dated 20.07.2012. Immediately, the petitioner had made a detailed representation dated 28.11.2012 requesting the authorities to fix appropriate compensation with interest at 12%. But, till date, no response is forthcoming from the respondents. Therefore, a direction may be given to the respondents to pass orders on his pending representation dated 28.11.2012.

3. Per contra, learned Standing counsel appearing for the first respondent urged this Court to dismiss the writ petition as not maintainable in the light of 16(3) of the Indian Telegraph Act, 1885, which categorically says that if any dispute arises with regard to sufficiency of compensation paid under Section 10(d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situated, be determined by him. Therefore, in the case on hand, the representation dated 28.11.2012 made by the petitioner to the first respondent requesting enhancement of compensation is not maintainable, hence, the writ petition is liable to be dismissed.

4. I fully agree with the above said submission. For better appreciation of the case on hand, it is relevant to extract below Section 16 of the Indian Telegraph Act, 1885 : -

"16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.-

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in

clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code, 1860 (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3), or sub-section (4) shall be final: Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by

the telegraph authority, from the person
who has received the same."

A mere reading of Section 16(3) shows that if there is any dispute arising with regard to fixation of compensation, the parties aggrieved thereon shall have to file an application before the District Judge within whose jurisdiction the property is situated, to determine the compensation. Therefore, in such view of the matter, as the petitioner has admittedly made a representation to the first respondent / the Chairman, TNEB, Chennai, he is directed to file an application before the District Judge, within whose jurisdiction the property is situated, within a period of two weeks from the date of receipt of a copy of this order. If any such application is filed, the District Judge concerned is directed to dispose of the said application on merits and also in accordance with Section 16(3) of the Indian Telegraph Act, 1885. With these directions, the writ petition stands dismissed. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai - 2.

2.The District Collector,
District Collectorate,
Thiruvallur District.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle,
Basin Bridge Power House,
Chennai - 12.

+1cc to Mr.Abdul Saleem , Advocate SR.No.81513

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A.SK(23/10/2019)