

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2020 of 2013

1. S.M.Thomas
2. S.M.Mathew .. Petitioners

-vs-

1. The Chairman
Tamil Nadu Electricity Board
NPPKKR Maligai
Anna Salai
Chennai 600 002
2. The Superintending Engineer
General Construction Circle
182, Subbarayan Road
Tatabad, Coimbatore 641 012
3. The Executive Engineer
TLC, Mettupalayam
Tamil Nadu ... Respondents

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to forbear the respondents from installing HT pylon on the petitioners' land admeasuring 1.2 acres out of 3 acres of agricultural lands comprised in R.S.Nos.482/4, 482/1C (Patta No.410) respectively of agricultural lands of of Gudalur Village and Taluk, The Nilgiris.

For Petitioners :: Mr.A.U.Ilango
For Respondents :: Mr.Abdul Saleem
Standing Counsel

ORDER

This writ petition has been filed by Mr.S.M.Thomas and Mr.S.M.Mathew for issuance of a mandamus forbearing the Chairman, Tamil Nadu Electricity Board, the Superintending Engineer, General Construction Circle, Coimbatore, the

Executive Engineer, TLC, Mettupalayam from installing the high tension pylon on the petitioners' land admeasuring 1.2 acres out of 3 acres of agricultural lands comprised in R.S.Nos.482/4 and 482/1C (Patta No.410) respectively of Gudalur Village and Taluk, The Nilgiris.

2. Learned counsel for the petitioners submitted that both the petitioners are the joint owners of the agricultural land measuring 1.32 acres and 0.32 acres comprised in R.S.Nos.482/4 and 482/1C respectively in Patta No.410 of Gudalur Village, The Nilgiris District. They are also cultivating tea, pepper, coffee, silver oak, jack, mango, plantain, vegetables etc., for three decades depending on the marginal income derived from the agricultural operations. While so, at about 2.30 p.m., on 29.1.2012, some strangers entered the petitioners' land without any permission or consent and began to mark the land with pegs. Shocked by the illegal and unlawful act of those persons, when they enquired their identity, they were informed that they were the officers and workers from the Tamil Nadu Electricity Board preparing to draw overhead high tension lines by installing pylons. Immediately the petitioners objected to their entry and digging of their land to install the high tension pylon on their land comprised in R.S.Nos.482/4 and 482/1C. Subsequently, they also issued a lawyer's notice on 1.2.2012 to the respondents setting out the facts to stop the proposed installation of high tension pylon, on the ground that their act was illegal and unlawful and without authority of law. But the respondents did not react to the lawyer's notice. As the petitioners were not given an opportunity of hearing and the first respondent had not demonstrated that he had applied his mind to avoid damage to the agricultural lands by their proposed installation of high tension pylon, they were advised to come to this Court. The learned counsel for the petitioners also submitted that the proposed overhead high tension line is going to pose a threat to the owners of the land and the respondents ought to have considered the adjoining river banks/river poramboke land available for the said purpose. If the overhead line is drawn over the river poramboke land, it would not only save the agricultural lands, but it would be beneficial to the respondents also. As the petitioners have proposed to construct a house for their own purpose, if the proposed high tension pylon is erected and drawn through the petitioners' land, the magnetic field of high tension 110 KV line might damage the electrical installations besides depriving their right to construct houses in their

land. Therefore, the writ petition be allowed as prayed for.

3. A detailed counter affidavit has been filed by the respondents. The learned standing counsel for the respondents submitted that the grounds raised in the present writ petition that the petitioners were not heard and no consent has been obtained from them, have been considered by this Court in W.P.No.18367 of 2009 and it has been held that the permission or prior consent of the land owner is not mandatory as per the provisions of Indian Telegraph Act, 1885. Adding further, it is stated that due to the objection of the petitioners, the newly constructed 110/11 KV sub station at Gudalur could not be linked to the Singara and Sandynallah sub stations through the new 110 KV double circuit line which is under progress. In view of the pendency of the writ petition, the earth work also could not be carried on, as a result no damage has been caused to the standing crops as averred by the petitioners. It is also stated that the erection of the transmission line over the petitioners' land does not deprive them of their agricultural activities and indeed, they can cultivate any type of crop like paddy, sugarcane, plantation etc., below the transmission line and tower after the erection of 110 KV EHT line in their land. Since the scheme has been sanctioned to improve the low voltage problem, uninterrupted power supply and to cater to the growing power demand of the agriculturists, once the scheme is implemented, the farmers will get the uninterrupted power supply for their pump sets which in turn will increase their agricultural activities. Therefore, the contention of the petitioners that erection of 110 KV line would have a negative impact is not true, instead it would increase their agricultural activities and it would have a positive impact on the agricultural economy. When the State of Tamil Nadu has been facing severe power crisis, laying of transmission line and commissioning of new sub station will reduce line loss to a great extent and result in more grid stability and reduce low voltage problems. This has been completely ignored by the petitioners. Even the District Magistrate/Collector of Nilgiris District had already been addressed vide letter No.SE/GCC/CBE/DB/D3/F. Gudalur 110 KV line/D.No.1006/2012 dated 30.3.2012 to consider the objection raised by the land owners/petitioners herein at tower location no.81A and also to pass appropriate orders. Since the same is pending, a direction may be given, he pleaded.

4. When the agriculturists like the petitioners are going to be the ultimate beneficiaries after the installation of the 110 KV EHT line, the respondents are directed to approach the District Collector, The Nilgiris with the copies of the objection letter given by the petitioners and their letter dated 30.3.2012, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the District Collector, The Nilgiris is directed to consider the same and pass appropriate orders within a period of one week thereafter. With this direction, the writ petition stands disposed of. Consequently, M.P.No.1 of 2013 is closed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ss
To

1. The Chairman
Tamil Nadu Electricity Board
NPPKKR Maligai
Anna Salai
Chennai 600 002

2. The Superintending Engineer
General Construction Circle
182, Subbarayan Road
Tatabad, Coimbatore 641 012

3. The Executive Engineer
TLC, Mettupalayam
Coimbatore District

copy to:

The District Collector, The Nilgiris.

+1cc to Mr.Ilango , Advocate SR.No. 85997

A.SK(18/10/2019)

W.P.No.2020 of 2013