

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.3604 of 2011
and
M.P.No.2 of 2011

P.Gopal

...Petitioner

Vs

1.Power Grid Corporation of India Ltd.,
Rep. by its Chairman and Managing Director
Plot No.2, Sector 29, Soudamini
Near Iffco Chowk, Gurgaon
Haryana 122 001

2.The General Manager
Power Grid Corporation of India Ltd.,
Construction Division
Mugappair, Chennai

3.The Executive Engineer
Power Grid Corporation of India Ltd.,
Construction Division
Mugappair, Chennai

4.The District Collector
Thiruvallur District

..Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorari calling for the records relating to the order dated 04.02.2011 in Rc.No.9360/2009/M2 of the 4th respondent and quash the same.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for Ms.AL.Ganthimathi.

For Respondents: Mr.V.Kalyanaraman
for M/s.Aiyar &Dolia for R1 to R3.

Mr.D.Raghu, Govt.Advocate
for R4.

ORDER

The present Writ Petition is filed challenging the order of the 4th respondent dated 04.02.2011, whereby, the District Collector, Tiruvallur, ordered the 1st respondent to go ahead with the work of erection of Electric Transmission line/Transmission Towers.

2. At the time of admission of this Writ Petition, while admitting the Writ Petitioner, this court ordered notice and granted Interim stay. However, subsequently, vide order dated 07.03.2011, in M.P.Nos.2 and 3 of 2011 in W.P.No.3604 of 2011, interim stay was vacated. Challenging the aforesaid order vacating the interim stay, the Writ Petitioner preferred Writ Appeal Nos.465 and 466 of 2011. By order dated 25.03.2011, a Division Bench of this Court passed orders as follows:-

"Heard the learned counsel for the appellant and perused the impugned interlocutory order dated 07.03.2011 passed by the learned single Judge in Miscellaneous Petition Nos.2 and 3 of 2011 in Writ Petition No.3604 of 2011.

2. Since the learned Single Judge has directed the writ petition itself to be listed for final hearing in the month of June 2011, we are not inclined to go into the correctness or otherwise of the interim order vacating the stay. Instead we dispose of these appeals with a modification of the impugned order by directing respondents 1 to 3 to determine and pay the compensation, which according to them is payable to the appellant. It is, however, made clear that payment of the compensation shall be subject to the result of the final determination by the appropriate authority as well as the final decision that may be taken in the writ petition. Needless to say, in the event the appellant is aggrieved by the compensation so determined and paid by the respondents, he may challenge the same before the appropriate forum. There shall be no order as to costs. Consequently M.P.Nos.1 and 1 of 2011 in the respective appeals are closed."

3. Today, when this Writ Petition is taken up for consideration and final disposal, the learned Senior counsel for the Petitioner submits that respondents 1 to 3-Power Grid Corporation has erected tower in the Petitioner's property. Pending the writ petition, the District Revenue Officer had determined the compensation and the said compensation amount was received by the Writ Petitioner under protest. The learned senior counsel for the Petitioner, further brought to the attention of this court to Section 16(3) of the Indian Telegraph Act, 1885. The said section reads as follows:-

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

(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 to the property is situate, be determined by him."

Further it is brought to the notice of this court that by order dated 25.03.2011, the Division Bench of this Court has observed in W.A.Nos.465 and 466 of 2011, that payment of compensation shall be subject to the result of the final determination by the appropriate authority as well as the final decision that may be taken in the writ petition. The learned senior counsel for the Petitioner further submits that due to erection of tower in the said land and that the Writ Petitioner has received the compensation only under protest as the petitioner is raising dispute with regard to the compensation, as per Section 16(3) of the Indian Telegraph Act, the 4th respondent-District Collector, Tiruvallur District, could be directed to refer the matter to the District Judge, within whose jurisdiction the property is situate, for determination of compensation.

4. On the other hand, the learned counsel appearing for Respondents 1 to 3 initially objected to the above said contention of the learned senior counsel for the Petitioner. However, in the light of the order of the Division Bench of this Court in W.A.No.465 and 466 of 2011 dated 25.03.2011, the learned counsel submits that either the 2nd respondent-General Manager, Power Grid Corporation of India Ltd., or the 4th respondent-District Collector may refer the matter to District Judge, for enhancement of compensation.

5. In view of the above submission of the learned counsel for both sides and the subsequent developments in the issue, the prayer sought for by the Writ Petitioner has become infructuous. However, taking into consideration the overall facts and

circumstances of the case, this court directs the Petitioner to submit a representation to the 4th respondent praying to refer the issue to the concerned District Court, along with a copy of this order. The 4th respondent, on receipt of such representation shall refer the issue to the concerned District Court under Section 16(3) of the Indian Telegraph Act, as early as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected MP is closed.

nvsri

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1. Power Grid Corporation of India Ltd.,
Rep. by its Chairman and Managing Director
Plot No.2, Sector 29, Soudamini
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Haryana 122 001
2. The General Manager
Power Grid Corporation of India Ltd.,
Construction Division
Mugappair, Chennai
3. The Executive Engineer
Power Grid Corporation of India Ltd.,
Construction Division
Mugappair, Chennai
4. The District Collector
Thiruvallur District

+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.5308

+1cc to M/s.Aiyar & Dolia, Advocate, S.R.No.4988

W.P.No.3064 of 2011

kak(08/03/2019)