

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.9573 of 2019

T.Jothimani

.. Petitioner

-vs-

1. The Chief Engineer
TANGEDCO
Office of CE/NCES
Chennai 600 002
 2. The Director/Generation
TANGEDCO
144, Anna Salai
Chennai 600 002
 3. The Superintending Engineer
Non Conventional Energy Resources
TANGEDCO
Udumalaipettai 642 154
 4. The Managing Director
Sri Lakshmi Vinayaga Mills
Door No.8A, Kumarapalayam
Dasavanaickenpatti Village
Kangayam Taluk
Tiruppur District
- .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records relating to the impugned Lr.No.CE/NCES/EE/WPP/AEE3/F.M/s Shree Lakshmi Vinayaga Mill/WEG No.18(U)/R.6798/D.147/18 dated 30.11.2018 issued by the second respondent as well as the letter issued by the third respondent by his letter No.2638/Me.Po./Ma.Sa.Ee.Aa/Udumalai/U.Se.Po/Mu.Ne.Va./Ko.Pu kar/18 dated 20.12.2018 and quash the same.

For Petitioner :: Mr.S.Saravanan

For Respondents :: Mr.S.K.Raameshuwar
Standing Counsel for R1 to 3

ORDER

This writ petition has been directed against the impugned order dated 30.11.2018 passed by the Director Generation, TANGEDCO, Chennai granting approval for erection of Wind Energy Generator to the fourth respondent subject to certain conditions mentioned therein and the consequential letter issued by the Superintending Engineer, Non Conventional Energy Resources, TANGEDCO, Udumalaipettai.

2. Learned counsel for the petitioner submitted that the petitioner owns land comprised in R.S.No.69/B7A of Eragampatty Village, Dharapuram Taluk, Tiruppur District, wherein he has also constructed a house and residing there. The petitioner is also rearing cattles in his farm apart from carrying agricultural activities. The land adjacent to the petitioner's land comprised in Survey No.69/B9A of Eragampatty Village belongs to the fourth respondent, wherein the fourth respondent has proposed to erect a windmill. As the fourth respondent has proposed to erect the windmill contrary to the regulations of TANGEDCO and the proposed Wind Energy Generator is going to cause safety hazard to the petitioner's life and property, he has filed a suit in O.S.No.364 of 2018 on the file of the District Munsif Court, Dharapuram for grant of injunction restraining the fourth respondent from erecting the windmill adjacent to his property. During the pendency of the suit, an Advocate Commissioner was also appointed to inspect the suit property in I.A.No.918 of 2018 in O.S.No.364 of 2018. The Advocate Commissioner also inspected the petitioner's property as well as the fourth respondent and submitted a report stating that the area earmarked for erecting the windmill is only 100 to 120 feet away from the petitioner's house. Subsequently, the petitioner also sent a representation on 17.11.2018 to the Chairman, TANGEDCO and also the Director/Generation, TANGEDCO not to grant permission for erection of the windmill pointing out the dangers posed to the petitioner's life and property indicating therein that if the windmill is within the distance of 120 feet, it will cause heavy prejudice to the petitioner. After considering his representation, by passing the impugned order, he has rejected the request of the petitioner. The learned counsel also submitted that when the fourth respondent cannot put up or commission the Wind Energy Generator within the distance of 120 feet from the petitioner's house or property, this has been completely overlooked by the second respondent. Therefore, he has been advised to come to this Court.

3. But no such condition/rule imposed by the Electricity Department for erection of the Wind Energy Generator is shown to the Court. Secondly, when the

petitioner has already filed a suit in O.S.No.364 of 2018 on the file of the District Munsif Court, Dharapuram for grant of injunction restraining the fourth respondent from erecting the Wind Energy Generator adjacent to his property, the petitioner cannot come to this Court, as his writ petition is hit by the principle that no parallel proceedings can be initiated during the pendency of the civil suit. The submission made on behalf of the petitioner that since there has been an order already passed by the second respondent rejecting his request, he cannot go before the civil Court, is wholly misconceived. The reason is that when the petitioner is unable to show before this Court any condition/rule why the fourth respondent cannot commission the windmill within the prohibited distance of 120 feet from his house, this Court is not inclined to entertain the writ petition. However, it is open to the petitioner to prosecute the pending suit in the manner known to law. The District Munsif Court, Dharapuram can also proceed with the suit independently without being influenced by the order passed by this Court. Accordingly, the writ petition stands dismissed. Consequently, W.M.P.Nos.10192 & 10193 of 2019 are also dismissed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr. S.Saravanan, Advocate SR.No. 31115

W.P.No.9573 of 2019

A.SK(08/05/2019)