



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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|-------------------------|---------------------------|
| Reserved on: 30.07.2019 | Pronounced on: 06.08.2019 |
|-------------------------|---------------------------|

Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.20343 of 2019  
& W.M.P.Nos.19683, 19684 & 19686 of 2019

M/s.P.Duraisamy Maharajha Rice Mills (P) Ltd.,  
Represented by its Director D.Rakkiappasamy,  
156, Kovai Road,  
Kadaiyur, Kangayam - 638 701,  
Tiruppur District. ... Petitioner

/versus/

1. The District Collector-cum-District Magistrate,  
Tiruppur District,  
Tiruppur.
2. The Deputy General Manager (Survey),  
Power Grid Corporation of India Limited,  
Salem Main Road, Bharathi Nagar,  
Sankagiri - 637 307, Salem District.
3. The Tahsildar,  
Kangayam,  
Kovai Main Road,  
Kangayam - 638 701.
4. The Chairman,  
Power Grid Corporation of India Limited,  
B-9, Qutab Institutional Area,  
Katwaria Sarai, New Delhi - 110 016. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records of the 1<sup>st</sup> respondent by proceedings in Mu.Mu.No.13089/2018/E1 dated 26.06.2019 and quash the same and consequently direct the respondents 1 & 2 to forthwith shift the erection of High Tension Transmission Towers to north end corner of the petitioners land comprised in S.F.No.708/2, 707, 709/3B, 710/2, 711 and 709/3B situated at Pappani Village, Kangayam Taluk, Tiruppur District.

For Petitioner : Mr.Doraisamy, Senior Counsel,  
for Mr.Saravana Sowmiyan

For R1 & R3 : Mrs.P.Rajalakshmi,  
Additional Government Pleader

For R2 & R4 : Mr.R.Thyagarajan, Senior Counsel,  
for M/s.Aiyan & Dolia

#### O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the respondents.

2. The petitioner herein is a Private Limited company, which has purchased around 22.37 acres of land situated at Pappani Village, Kangeyam Taluk, Tirupur, vide sale deed dated 02.07.2018. They have purchased the property for the purpose of establishing Institution/Industries. While being so, the 2<sup>nd</sup> respondent has measured the land for erecting High Tension Electricity Transmission Line. As per the draft route alignment, the petitioner reliably understand that the High Tension Electricity Transmission Line is likely to pass through the centre of the above land. If the project is to be proceeded as per proposed route alignment, the entire land will become useless and he cannot commence his industry due to passing of High Tension Line middle of his land. If the proposed Electricity Transmission Line is installed at the northern end of his land, his land will not be affected much and he can put into use of his remaining land for the purpose for which he has purchased. In view of that the Company gave a representation to the respondent to consider the request of alternate route alignment by moving the High Tension Transmission Line to the northern end of his property.

3. The District Collector is the competent Authority to consider such request as per Section 17 of the Tamil Nadu Telegraph Act, 1885. Though the representation was received by the 2<sup>nd</sup> respondent/Deputy General Manager (Survey) Power Grid Company as well as the 1<sup>st</sup> respondent/District Collector, no order was passed on his representation. Therefore, the petitioner filed W.P.No.23811 of 2018 in which the Hon'ble High Court passed the following order on 14.09.2018.

"Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court without going into the merits of the case, directs the first

respondent to consider the representation of the petitioner dated 07.08.2018 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as other interested parties, within a period of six weeks, from the date of receipt of a copy of this order."

4. Thereafter, the 1<sup>st</sup> respondent/District Collector, Tiruppur District, called for reports from the 2<sup>nd</sup> respondent/Deputy General Manager, Power Grid Corporation of India, for re-alignment of the High Tension Transmission Line. When the representation is pending before the 1<sup>st</sup> respondent, the men of 2<sup>nd</sup> respondent entered upon the land of the petitioner and started the process of erecting the Transmission Line. The petitioner was furnished with copy of the 1<sup>st</sup> respondent proceedings by the 2<sup>nd</sup> respondent indicating the permission granted to the 2<sup>nd</sup> respondent for entering upon the land of the petitioner. The 1<sup>st</sup> respondent/District Collector, Tiruppur, did not conducted the enquiry as mandated by the High Court in its order dated 14.09.2018 in W.P.No.23811 of 2018. The impugned order of the 1<sup>st</sup> respondent/District Collector, dated 26.06.2019 was not communicated to the petitioner, which was passed without affording opportunity to the petitioner. Hence, the order is illegal, perverse and unsustainable.

5. The learned Senior Counsel appearing for the petitioner would further submit that the petitioner/Duraisamy Maharajha Rice Mills(P) Ltd is not against installing Transmission Tower in their land. The only objection is that the route alignment of the Transmission Line run middle of their land rendering the entire property useless. If the alignment is moved towards the northern end of his land, his property can be put to better use. The petitioner is ready to pay the necessary charge for the said deviation in the route alignment. Despite given the undertaking and expressing the difficulty and irreparable loss likely to cause to the petitioner, the 1<sup>st</sup> respondent had passed the impugned order even without inspecting the land and technical feasibility of realigning the route.

6. The 2<sup>nd</sup> and 4<sup>th</sup> respondents have filed counter, wherein, it is stated that the project is part of Raigarh-Pugalur 6000 MW HVDC system with a 800 KV HVDC Transmission Line without any tapping in between connecting Raigarh in the State of Chhattisgarh and Pugalur in the State of Tamil Nadu. This project is to facilitate evacuation and transfer of power to supply Electricity to the State of Chhattisgarh, Maharashtra, Telangana, Andhra Pradesh and Tamil Nadu. Out of 1843 Kilometers, about 345 Kms passes through State of Tamil Nadu.

As on date, foundation works for erection of 840 Towers have been completed for the entire project area as against total of 966 Towers. As far as, Tiruppur District is concerned, 106 are proposed covering 36.95Kms. Out of 106 locations, foundation works in 55 locations have been completed. Erection of 37 number of Towers have been fully completed. Immediately, after the approval of the Transmission Line project, the Respondent Corporation has surveyed the area, to ascertain the most Techno-economically feasible route for drawing up of Transmission Line, taking into account, various parameters such as:

- a. Minimal impact on the environment.
- b. Avoiding inhabitant area to the extent possible.
- c. Least impact on the crop and plantation.
- d. Crossing the EHT line at an angle as close to 90 degree
- e. Crossing the National Highways at an angle of 90 degree
- f. Avoiding places of worship etc.
- g. Avoiding Natural water bodies and Parks, etc.
- h. Most economical route.

7. Based on the Techno-economic feasibility, the Tower location has been finalised. The preliminary route alignment survey was conducted during May-2017 and route alignment was fixed accordingly. As per the approved route alignment, the Tower in Location No.218/3 was proposed to be erected in the land of the petitioner. This route alignment was finalised during the survey conducted in May-2017. Whereas, the petitioner has purchased the property only during July-2018, knowing fully well that the proposed route alignment is likely to pass through the said land. In the earlier Writ Petition filed by the petitioner, this Court directed the 1<sup>st</sup> petitioner to hold enquiry upon the request of the petitioner to change the route alignment. Accordingly, the 1<sup>st</sup> petitioner held enquiry on 09.11.2018 after issuing notice to the parties concerned. The petitioner herein participated in the enquiry and reiterated his request for shifting the alignment within his property. The 1<sup>st</sup> respondent directed the Corporation to study the Technical feasibility of changing the route alignment. Accordingly, on 10.11.2018, the respondent visited the site and collected the ground data and carried out technical feasibility. The 2<sup>nd</sup> field visit was down by the respondents on 21.11.2018 along with the petitioner. Subsequently on 12.06.2019, the Tahsildar of Kangayam, inspected the site in the presence of the petitioner. After explaining the technical constraint in re-positioning of the Tower falling in the petitioner's land and after several survey by the Revenue Officials, the 1<sup>st</sup> respondent has passed the order of rejecting the representation of the petitioner to

locate the tower position.

8. It is also further contended in the counter, that the project is carried out in accordance with law and for the public welfare and there is no violation of any mandatory provision as alleged by the petitioner in his affidavit. It is also stated in the counter that, the respondent has completed the foundation work in the preceding sections viz., Location Nos.218/0, 218/1, 218/2, relocation of the Tower position is not technically feasible.

9. Relying upon the judgment of the Hon'ble Supreme Court rendered in Power Grid Corporation of India Ltd., Vs. Century Textile Spinning Mills reported in (2017) 5 SCC 143 and the judgment of Division Bench of this Court in W.A.No.79/19 confirmed by the Hon'ble Supreme Court in S.P.L.(C).No.11596 of 2019, dated 22.07.2019 the learned Senior Counsel for the 4<sup>th</sup> respondent submitted that Writ Petition is to be dismissed in the light of the provisions of Indian Telegraph Act - 1885 and Electricity Act - 2003.

10. After considering the rival submissions made by the Learned Senior Counsel and on perusing the record, this Court arrived at the conclusion that the request of the petitioner to realign the route cannot be accessed for the following reasons:-

(i). From the statement given by the respondents regarding the current status of the work on as 29.07.2019, the location of the Tower No.218/3 falls in the land of the petitioner. The preceding and succeeding Tower Nos: are 217/0, 218/0, 218/1, 218/2, 218/4, 219/0, except Tower No.219/0, the Tower work of the preceding and succeeding the Tower No.218/3 has been substantially completed.

11. The route map from the photograph produced by the petitioner, it appears the line passes through the middle of the land which he has purchased. If the every land owner opts for passing the line along with the boundary of the property, then the erection can never be straight. While the statute empowers the Authority to enter upon the land and erect towers with minimum damage and loss to the land owners, the discretion of the petitioner to chose the route line which will cause minimum damage to the land owners cannot be doubted by the Court. The statue provides for opportunity to object and same has been considered by the appropriate Authority namely the 1<sup>st</sup> respondent. After getting inputs from the Revenue Officer and Technicians, the 1<sup>st</sup> respondent/District Collector has arrived at a conclusion that re-alignment of tower is not possible.

12. Further, from the photograph circulated by the respondents counsel indicates that the petitioner herein was present along with the Revenue Officials on the date of inspection. The representative of the Petitioner Company were present during the inspection of the site and some of the photographs produced by him proves the erection of tower along the approved route alignment which includes the petitioner land.

13. In the said circumstances, the request of petitioner has been rightly rejected by the 1<sup>st</sup> respondent/District Collector, Tirupur District, which requires no judicial review under Section 226 of the constitution. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-  
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

bsm

To

1. The District Collector-cum-District Magistrate,  
Tiruppur District,  
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Katwaria Sarai, New Delhi - 110 016.

+1 CC to Mr. Saravana Sowmiyan, Advocate sr 67476.

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RR(CO)  
SP(29/08/2019)