

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.29919 of 2014

&

M.P.No.1 of 2014

Saravanan

.. Petitioner

Vs.

- 1.The Superintending Engineer,
TANGEDCO, Capper Quarry,
Cuddalore Taluk,
Cuddalore District.
- 2.The Executive Engineer,
TANGEDCO, Kurinjipadi,
Kurinjipadi Taluk,
Cuddalore District.
- 3.The Assistant Executive Engineer,
TANGEDCO, Kurinjipadi,
Kurinjipadi Taluk,
Cuddalore District.
- 4.The Junior Engineer (Rural)
TANGEDCO, Kurinjipadi,
Kurinjipadi Taluk,
Cuddalore District.

5.Kuppusamy

.. Respondents

PRAYER: This Petition is filed under Article 226 of Constitution of India to issue a writ of mandamus forbearing the respondents 1 to 4 from laying any electricity post in any portion of the pathway running across S.Nos.48/34, 48/14, 48/17, 48/18, 48/32, 48/30 and 48/28 in Kesavanarayanapuram Village, Kurinjipadi Taluk, Cuddalore District.

For petitioner : Mr.D.Baskar

For R1 to R4 : Mr.M.Varun kumar

For R5 : Mr.S.V.Karthikeyan

ORDER

This writ petition has been filed to forbear the respondents 1 to 4 from laying any electricity post in any portion of the pathway running across S.Nos.48/34, 48/14, 48/17, 48/18, 48/32, 48/30 and 48/28 in Kesavanarayanapuram Village, Kurinjipadi Taluk, Cuddalore District.

2. According to the petitioner, the fifth respondent prevented the villagers from using the pathway. Therefore, the petitioner has filed the present writ petition before this Court.

3. It is seen that the fourth respondent has filed counter affidavit on behalf of the respondents 1 to 3. In the counter affidavit, it is stated that SF.No.48/12 and SF.No.48/13 are the patta properties which belongs to the fifth respondent and also denied the averment that the Revenue department has wrongly entered the revenue records. It is also stated that, the fifth respondent has filed two civil suits before the learned Additional District Munsif Court, Cuddalore, viz., O.S.No.706 of 2004 which was filed for declaration of title and permanent injunction, against the department and private defendants and the same was also decreed in his favour. The other suit in O.S.No.764 of 2004 was filed for mandatory injunction and to direct the respondents to install new electric pole in between the existing poles and the same was dismissed. Challenging the Judgment and decree passed in O.S.No.764 of 2004, the fifth respondent preferred an appeal in A.S.No.12 of 2007 on the file of the Special Court, Cuddalore and the same was decreed with a direction to the defendants to install a new electric pole. The board has preferred a second appeal in S.A.No.347 of 2008 before this Court and the same was referred to lok adalat and compromise was also arrived between the parties and an award was passed. At the time of erecting the poles, one Ramachandran and Ravi have raised objections. Though police protection was given on 31.01.2015 to erect the pole, because of the objectors, they are unable to proceed with the work. In the present writ petition, the fifth respondent has not impleaded the revenue officials who are the necessary parties. Therefore, for non-joinder of necessary parties, this writ petition is liable to be dismissed.

4. From the perusal of the records, it is seen that the petitioner is a third party to the suits filed by the fifth respondent. It is seen that the petitioner has not placed any materials to show that he is having right over the aforesaid lands. No material has been produced in the typed set of paper to prove that the said land is the pathway for the villagers.

5. Based on the facts and submissions of the counsel, the grievance of the petitioner cannot be decided in this writ petition. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is open for the petitioner to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Superintending Engineer,
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Cuddalore Taluk,
Cuddalore District.
- 2.The Executive Engineer,
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Kurinjipadi Taluk,
Cuddalore District.
- 4.The Junior Engineer (Rural)
TANGEDCO, Kurinjipadi,
Kurinjipadi Taluk,
Cuddalore District.

+1 cc to Mr.M.Varun Kumar, Advocate SR.No.37456
+1 cc to Mr.R.Gururaj, Advocate SR.No.38911
+1 cc to Mr.S.V.Karthikeyan, Advocate SR.No.37442
+1 cc to The Special Government Pleader, Sr.No.38869

W.P.No.29919 of 2014

SVI (CO)
CSL/12.06.2019