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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.7465 of 2017

V.Selvakumar

... Petitioner

Vs

1.The Managing Director,
TANGEDCO, Annasalai,
Chennai - 2.

2.The Superintending Engineer,
CDC/TANGEDCO, Guindy,
Chennai - 32.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents to consider and dispose of the petitioner's representation dated 17.01.2017 in the light of the judgment of the Hon'ble Court in W.A.Nos.797 of 2006 and 460 of 2007, dated 03.11.2016 as reported in (2016) 8 MLJ 249.

For Petitioner : Mr.J.Nagarajan

For Respondents: Mr.Abdul Saleem, Standing Counsel

ORDER

The petitioner/V.Selvakumar has filed this writ petition seeking for issuance of a writ of mandamus to direct the respondents to consider and dispose of his representation dated 17.01.2017 requesting to remove the pylons (poles) erected in his land, in the light of the judgment of this Court in W.A.Nos.797 of 2006 and 460 of 2007, dated 03.11.2016, reported in (2016) 8 MLJ 249.

2. When the matter is taken up, learned Standing Counsel appearing for the respondents submitted that the prayer made in the writ petition is liable to be rejected as the poles were already erected in March, 2016 itself, and only after the completion of the erection of entire poles, the petitioner had made a belated request to remove the same, that too, without



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impleading the District Collector as one of the necessary parties to the writ petition as adumbrated in Section 17 of the Indian Telegraph Act, 1885, which is quoted below:-

"17. Removal or alteration of telegraph line or post, on property other than that of a local authority - (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any persons entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line of post accordingly:

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final."

A perusal of the above said provision vividly shows that for removal or alteration of telegraph line or post, the District Magistrate/District Collector is the authority concerned to perform such duties. In the present case, the respondents have already completed the erection of entire poles in March, 2016 itself, and therefore, the District Collector is the Authority concerned to order for removal of such poles erected, but,



unfortunately, the petitioner has not impleaded the District Collector concerned as party respondent in the present writ petition, therefore, for non-joinder of necessary party, the writ petition is liable to be dismissed and accordingly, it is dismissed. No Costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Managing Director,
TANGEDCO, Annasalai,
Chennai - 2.
- 2.The Superintending Engineer,
CDC/TANGEDCO, Guindy,
Chennai - 32.

+2cc to Mr.Abdul Saleem, Advocate Sr.97187 and 97190

W.P.No.7465 of 2017

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srg 31/12/2019