

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.3913 of 2019

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

.. Appellant

vs.

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

Appeal filed under Clause 15 of the Letters Patent against the order dated 6.8.2019 passed in W.P.No.20343 on the file of this Court.

W.P.No.20343 of 2019:

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 1st 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 Appellant : Mr.K. Doraiswamy
Senior Counsel
for M/s.P.Saravana Sowmiyan

For Respondents : Mr.Jayesh B. Dolia
for M/s.Aiyar & Dolia
for respondent Nos.2 and 4

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned Senior Counsel for the appellant and perused the impugned judgment dated 06.08.2019.

2. The appellant is the owner of chunk of lands at Pappani Village, Kangayam Taluk, Tiruppur District. It appears that certain High Tension Transmission Towers were erected and accordingly, invoking the provisions of the Indian Telegraph Act, 1885, towers were proposed and routed which also crossed the lands of the appellant. The grievance of the appellant is that it is passing almost through the middle of its plots, as a result whereof, the utility of the land as well as loss being caused cannot be compensated. This led to some litigation and then ultimately an order came to be passed on 26.06.2019 by the District Magistrate, Tiruppur, under the provisions of the Indian Telegraph Act, 1885, disposing of the application filed by the appellant in relation to its grievances rejecting it on the ground that it would not technically be feasible to allow the application keeping in view the reports that have been received and further that the project had been almost executed and cannot be altered.

3. In the counter-affidavit filed before the learned Single Judge, the respondents have also indicated that the project had been finalised much earlier and that the appellant had purchased lands almost fourteen months after the finalisation of the project. Taking into consideration of such factors, the respondent District Collector, came to the conclusion that it will not be appropriate to consider the request of the appellant for shifting of the towers as desired.

4. Learned Senior Counsel for the appellant contends that the appellant was not made known the contents of the expert report and even otherwise the expert report from the Central

Committee could be gathered for the purpose of re-alignment of the towers, which request has not been accepted for no better reason. Apart from this, the appellant also offered to undertake the entire exercise of re-alignment and on the strength, it is urged that the impugned order deserves to be set aside with a direction to the respondents to re-consider the matter again.

5. We have gone through the order passed by the first respondent District Collector on 26.06.2019 and have also perused the pleadings before the learned Single Judge.

6. The power to enter upon any of the land and erect towers remains undisputed in view of the provisions of the Indian Telegraph Act, 1885. Nonetheless, there is no bar for a person, who contests his claim, otherwise invoking the common law remedy. But the Act being a Special Act, also provides for compensatory relief by moving an application to be considered by the District Judge concerned. We, therefore, find that the right to enjoy the property and not to be dispossessed otherwise than in accordance with law in view of Article 300-A of the Constitution of India, has been taken care of in the 1885 legislation itself. The said Code is a complete Code and the appellant has remedy to claim compensatory damages from the department in the event the appellant is aggrieved on account of crossing of High Tension Transmission Line over its lands causing any damage, which, in our opinion, can always be compensated in terms of money. We, therefore, do not intend to assess the alleged loss or sufferance being complained of by the appellant in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India. This, therefore, in our opinion, would not be the appropriate remedy. It is for the appellant to approach the appropriate forum for redressal of any grievance and if any such application is filed, the same shall be dealt with in accordance with law.

7. The appeal is, consigned to records with the said observations. No costs. Consequently, C.M.P.No.24583 of 2019 is closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To:

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

+1 CC to M/s.P. Saravana Sowmiyan, Advocate sr 99043.

+1 CC to M/s. Aiyar and Dolia, Advocate sr 97946.

W.A.No.3913 of 2019

GP(CO)
SP(30/12/2019)

सत्यमेव जयते

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