

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.10.2019

PRONOUNCED ON : 14.10.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.28895 of 2019 and
W.M.P.No.28363 of 2019

M.Murugesan

Petitioner

Vs

1.The District Collector,
Office of the District Collector,
Namakkal District,
Namakkal.

2.The Deputy General Manager,
Power Grid Corporation of India,
Sankagiri TLC Office,
No.3/3/27-B, Bharathy Nagar,
Salem Main Road,
Sankagiri, Salem District - 637 301.

.... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorari calling for the records of the impugned order in Na.Ka.26835/Thokkavadi (168/0)/2018/H.2" (dated 24.09.2019) of the first respondent and quash the same as illegal.

For Petitioner :Mr.V.Raghavachari

For 1st Respondent :Mr.N.Inbanathan,
Additional Government Pleader

For 2nd Respondent :Mrs.Rita Chandrasekar

ORDER

The case of the petitioner:

The petitioner and his father are owners of the land in S.No. 4/1B 2 at Thokkavadi Village, Thiruchengode Taluk, Namakkal District. Till the year 2005, they were carrying on

agricultural activities in the said land. In the year 2005 they converted the agricultural land into housing sites. The lay out with 39 plots was duly approved by the competent authority. The land earmarked for public purposes were already gifted to the local authority as per the rules. While so, the District Collector, Namakkal has granted enter upon permission to the Powergrid Corporation to erect High-Tension Tower across his land despite his objection. The said order of the first respondent vide order dated 24/09/2019 is impugned in this writ petition.

2.The grievance of the petitioner is that, during the month of June 2018, the 2nd respondent began arrangements for the implementation of the Power Transmission Project called "Pugalur to Raigarh 800 KV Quad D/C Line" through the lands in and around his village. Originally the towers were supposed to be erected along the adjacent dry lands. All of the sudden, without intimation or survey, the 2nd respondent arbitrarily and purposefully changed the alignment route of the Towers in order to safeguard the lands of politically sound and influential persons, upon whose land the original route run.

3.The second respondent served a notice on 20/07/2018 indicating as if the petitioner has authorised the 2nd respondent under sections 10 to 19 of the Indian Telegraph Act, 1885 r/w section 164 of the Electricity Act, 2003 to implement the project through his land. The petitioner never authorised the second respondent. Hence, it was objected by the petitioner through his letter dated 20/08/2018. Despite objections, the second respondent fixed compensation only for the base area of the land and not for the entire area where right of way sought. The order fixing compensation was passed on 24/09/2018 without taking note of the damages caused to the land. After erection of the tower in the proposed point in his land measuring 350 ft by 400 ft, the remaining land of the petitioner will go waste and cannot be used for any other purpose. He can neither construct house nor put any other construction, where the high tension lines run. The compensation has to be arrived based on the damages incurred in each case. Since, the compensation fixed was not in accordance to law, the petitioner refused to receive the compensation and challenged it in W.P 26539/2018. This court ordered status quo on 09/10/2018.

4.Meanwhile, the second respondent sought permission from the first respondent to enter upon the land of the petitioner. The first respondent issued show cause notice to the petitioner to appear before him on 22/11/2018. The petitioner appeared before the first respondent along with his counsel and informed the first respondent about the pendency of the writ petition filed and sought for copies of documents relate to the approval of the project by the Central Government, Paper Publication,

Gazette Notification, project report, project approval copy, approved route, route map, angle deviation, check survey list, re-check survey list, Guidelines for safety measures, etc. These documents were necessary for the petitioner to prefer appeal. The first respondent has not furnished the documents sought.

5.While so, the notice impugned in W.P.No.26539 of 2018 was withdrawn by the respondent. Hence, W.P 26539 of 2018 was dismissed as infructuous on 19/03/2019 with liberty to the petitioner to work out the remedy in the manner known to law.

6.A fresh notice for enquiry was issued by the first respondent to appear for the enquiry on 24/12/2019. For the subsequent notice dated 26/08/2018 also the petitioner replied on 03/09/2019. Thereafter, on 26/09/2019 the second respondents men and agents along with police officials, came to his land to erect tower. Then only he came to know about the impugned order passed by the first respondent permitting the second respondent to enter upon. The said impugned order passed without issuing the documents sought for and without affording adequate opportunity to put forth his objections. Hence it is illegal. The petitioner has also questioned the legality of the project alleging infraction of procedures and harmful effects of the high tension tower lines.

7.The learned counsel for the Power Grid Corporation contented that, the legality and necessity of the project already came for consideration before the Single Judge and the Division Bench of this court. The Courts concurrently held the project as well the procedure followed as legal. The contentions regarding the legality and necessity of the project were considered by the courts at length and upheld. While so, the objections of the petitioner to enter upon his land was considered by the District Collector and he has passed order permitting the 2nd respondent to enter upon the petitioner's land. The District Collector has also directed the 2nd respondent to pay the compensation for the land use and damages and remit the same by RTGS within one week into the account of the petitioner. The project which is running through several States and several Districts within Tamil Nadu is nearing completion. The route has been chosen after due deliberation and consultations. No other better alternate route is available. The 2nd respondent has not shown any discrimination in deciding the route. The copies of the entire project and other voluminous records are not necessary for the petitioner and it cannot be provided to him. The documents relevant to the petitioner land alone can be provided to the petitioner and they were given to the petitioner. The queries raised by the petitioner in his objections were duly replied and the same is also extracted in the order impugned. Hence, sought for dismissal of the writ petition.

8.The petitioner specific contention of the petitioner is that, his lands were identified to erect towers in order to save the land of politically powerful people. But the petitioner has not mentioned any particulars about the said political powerful persons to his land location and how that land could be more viable than his land. He had not shown any other specific alternate route which according to him available.

9.His other contentions regarding legality and necessity of the project were already heard and decided in the earlier round of litigation. The yet another question raised in this writ petitioner is 'whether the refusal to provide necessary documents will not amount to deprivation of the citizen right of information'.

10.This is a mega project running several thousand kilometres crossing several states involving public money. As a citizen and land owner, definitely, the petitioner have a right to know about the project. In the instant case, the petitioner objects the entry into his land on the ground that there are alternate land suitable route for erecting towers. Having said so, it is his responsibility to identify the alternate route available. Instead of that, the petitioner has sought for documents such as approval of the project by the Central Government, Paper Publication, Gazette Notification, project report, project approval copy, approved route, route map, angle deviation, check survey list, re-check survey list, Guidelines for safety measures, etc. which are voluminous documents. This court finds that the averments of the petitioner in this regard is without any basis and an attempt to make roving enquiry.

11.The issue of furnishing documents and other grounds raised in this writ petition were already raised by other land owners and the same has been discussed at length in W.A.No.79 of 2019 by the Division Bench of this Court vide order dated 11/04/2019. For the sake of conclusion, the observation made in the said writ appeal is extracted below:-

"It is the appellants who approached the first respondent and for the reasons known, they did not appear for hearing. They have asked for numerous documents, which is for the purpose of dragging on the proceedings. Order under Section 16(1) of the Act was passed not only on the request of the appellants but also that of the second respondent. The role available to first respondent is rather limited. It is neither a supervisory nor an adjudicating authority over the second respondent. When the element of expertise is involved and the same is undertaken by the statutory body as

per law, the power of judicial review will have to be entertained with extreme caution. We cannot interfere with the matter on some apprehension expressed by the appellants. Now the substantial part of the project is over insofar as the appellants are concerned. We are not dealing with an acquisition per se. There is no material available to controvert the reasoning in the impugned orders. Admittedly, there is overwhelming public interest exists in favour of the second respondent. Every delay would cause serious financial implications among others. It might have a spiralling effect on the project as well. The appellants cannot ask the first respondent to direct the second respondent to furnish all the documents which they seek. There is no arbitrariness in the procedure adopted by the second respondent. Certainly, the appellants can seek for appropriate compensation for the diminishing value of their lands caused by the overhead lines and erection of towers."

(emphasis added).

12. Therefore, the contentions raised by the petitioner is either already considered and negatived and no fresh consideration is required or without any force to substantiate. For the reasons stated above, this Court finds no merit in the writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

jbm

To

1. The District Collector,
Office of the District Collector,
Namakkal District,
Namakkal.

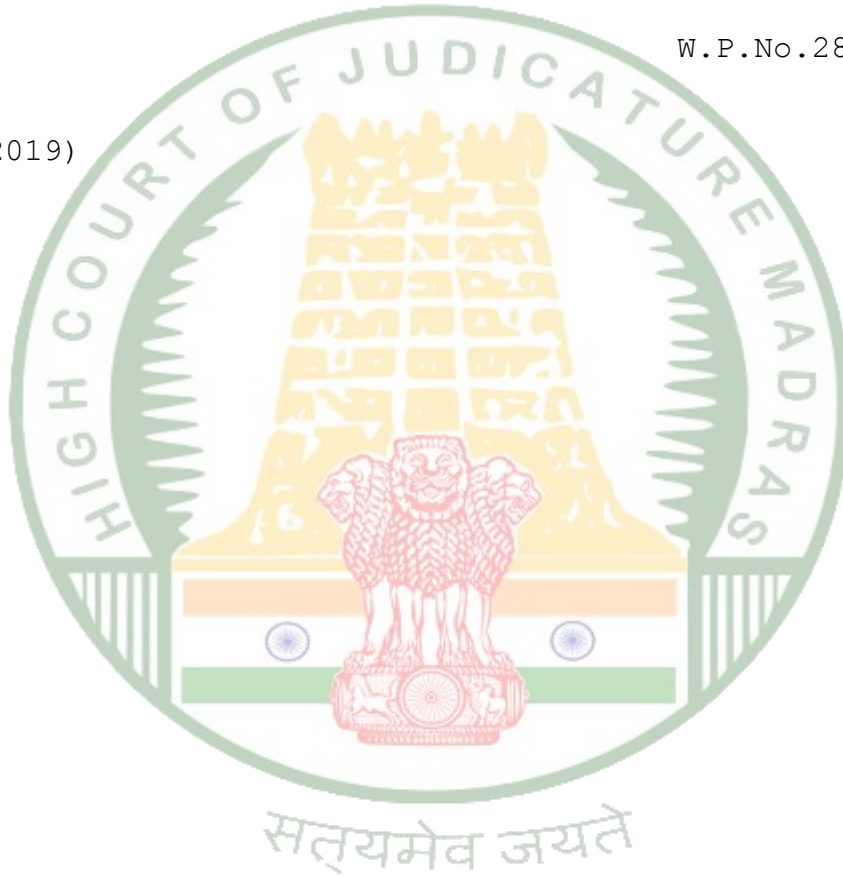
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2.The Deputy General Manager,
Power Grid Corporation of India,
Sankagiri TLC Office,
No.3/3/27-B, Bharathy Nagar,
Salem Main Road,
Sankagiri, Salem District - 637 301.

+lcc to Mr.V.Raghavachari, Advocate, S.R.No. 85861
+lcc to M/s.Aiyar & Dolia, Advocate, S.R.No. 85989
+lcc to the Government Pleader, S.R.No. 86102

W.P.No.28895 of 2019

BS (CO)
GN(13/11/2019)



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