

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WRIT PETITION NO.29296 OF 2019

AND

W.M.P.NO.29096 OF 2019

Nallasamy

... Petitioner

Versus

1. The District Collector,
Collectorate,
Tiruppur - 641 604.
2. The Superintending Engineer,
Non-Conventional Energy Sources,
TANGEDCO,
Koluman Road, Udamalapet,
Tiruppur District - 642 126.
3. The Chairman and Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
10th Floor, NPKRR Maligai,
No.144, Anna Salai, Chennai - 600 002.
4. K.S.Wind & Renewable India Private Limited,
No.40, Vishalakshi Street,
Aishwarya Garden,
Goparasanallur,
Poonamallee, Chennai - 600 056.

5. P.Muthuraman

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1 to 3rd respondents forbearing the 4th and 5th respondents from erecting Electricity poles on the petitioner's land and draw 230 K.V High per transmission wire over the petitioner's lands situated at Kannivadi Village, Dharapuram Taluk, Tiruppur District, comprised in S.No.610, measuring an extent of 2.21 acres, without giving any prior notice or seeking consent from the petitioner for such usage of petitioner's patta lands.

For Petitioner .. Mr.S.Kannan

For R1 .. Mr.N.Inbanathan,
Additional Government Pleader

For R2 and R3 .. Mr.Abdul Saleem, Standing Counsel

For R4 .. M/s.Kanimozhi Mathi

For R5 .. No Appearance

O R D E R

The petitioner herein has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the 1 to 3rd respondents forbearing the 4th and 5th respondents from erecting Electricity poles on the petitioner's land and draw 230 K.V High per transmission wire over the petitioner's lands situated at Kannivadi Village, Dharapuram Taluk, Tiruppur District, comprised in S.No.610, measuring an extent of 2.21 acres, without giving any prior notice or seeking consent from the petitioner for such usage of petitioner's patta lands.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The petitioner herein is the owner of the land to an extent of 2.21 acres in S.No.610 at at Kannivadi Village, Dharapuram Taluk, Tiruppur District. Alleging that on 13.09.2019, the fifth respondent who is the contractor of the fourth respondent with an intention of erecting poles in his land has brought material. Without prior permission or notice, the fourth respondent and his men are trying to erect transmission pole in his land. Hence, he gave a representation to the District Collector. But, there is no action. Hence, the present Writ Petition.

4. One Mr.Kumar has filed counter affidavit on behalf of the fourth respondent and fifth respondents stating that they are carrying on tower erection activity on behalf of the Government of India and they have sought for the consent of the land owners. They are ready to compensate the land owners for the damage cause regarding the right of way for transmission lines.

5. Whereas, in the reply affidavit filed by the District Collector, it is stated as follows:-

"5.....private concern carrying out

the tower erection work for its own business not for service to the public, being thus, any obstacles in erecting tower should be meet out by the private concern on their own risk and they have no right to claim the assistance of Government machineries for their own business. This W.P 22376/2019 is pending before this Court.

6. I submit that no high tension tower or tower lines have been formed in the petitioner's land. However the said private concern was strictly instructed that not to commence the tower line erection works in the petitioner's land and also any other private land without getting consent from the land owners. Further the field level Revenue Officials are strictly instructed to keep vigilance in this regard."

6. From the reply affidavit of the District Collector is clear that the respondents 4 and 5 without proper authority attempting to enter upon the land of the petitioner for erecting towers. Since, it is without authority and against the procedure established under law, such act cannot be permitted.

7. Hence, this Writ Petition is allowed. The respondents 4 and 5 are restrained from entering the land of the petitioner's for erecting tower without their explicit consent. There shall be no order as to costs. Consequently, connected W.M.P is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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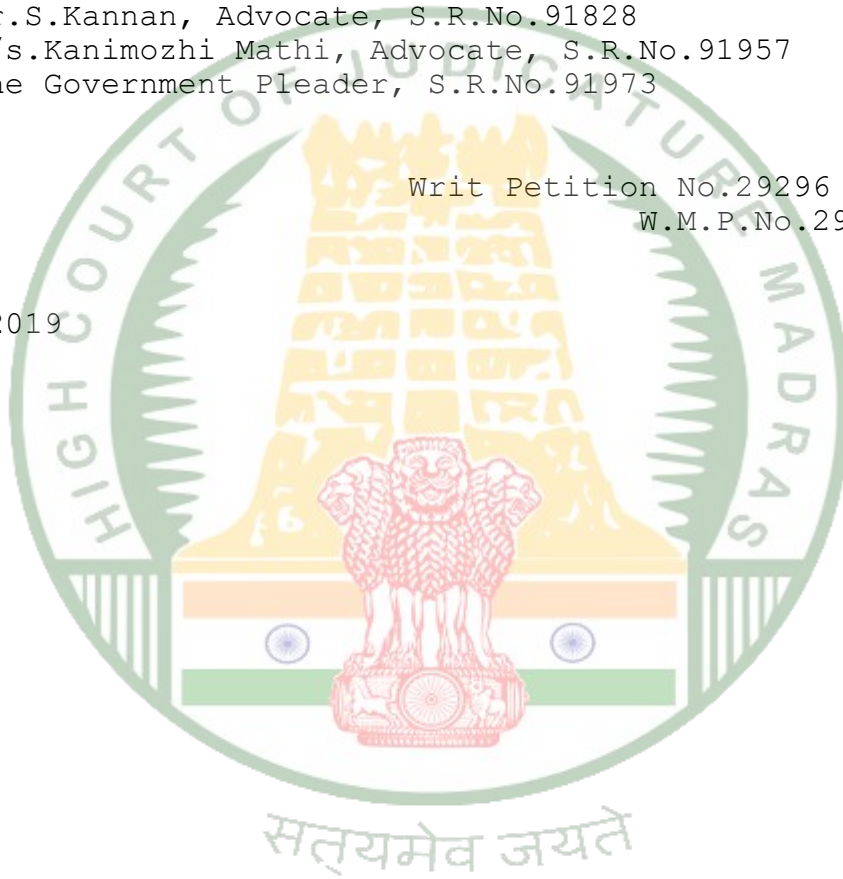
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+1cc to Mr.S.Kannan, Advocate, S.R.No.91828
+1cc to M/s.Kanimozhi Mathi, Advocate, S.R.No.91957
+1cc to the Government Pleader, S.R.No.91973

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SJ(CO)
CS/05/12/2019



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