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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :24.06.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

W.P.No.25948 of 2018

K.M.Periyasamy

...Petitioner

Versus

1.The District Collector,
Collectorate Office,
Salem.

2.The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002.

3.The Executive Engineer,
Transmission Line Construction Wing,
Tamil Nadu Transmission Company, [TNEB],
Udayapatty, Salem-14.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records comprised in the proceedings of the first respondent dated 06.10.2017 in proceedings No.Na.Ka.22645/2015/(,5)/gp2, fixing the compensation for the damages suffered by the petitioner during the erection of the High Tension Tower No.62 in the agricultural lands measuring an extent of Acre 1.4 ½ cents situated in Survey No.316/3C, Kurichi Village, Vazhapadi Taluk, Salem District as against the provisions of the Electricity Act, 2003 and quash the same and consequently direct the first respondent to dispose of the claim of the petitioner in accordance with law.

For Petitioner : Mr.M.Venkatakkrishnan

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

For R2 and R3 : Mr.Abdul Saleem
Standing Counsel



O R D E R

Affidavit filed by the petitioner and the counter affidavit filed by the first respondent are perused.

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2.The petitioner herein is the land owner affected by the process of erecting High Tension Tower. Therefore, he has sought for just and fair compensation for the damages caused to his coconut trees and turmeric plants. The first respondent/District Collector pursuant to Section 16 of the Indian Telegraph Act, has considered the representation made by the petitioner and in pursuant to the direction of this Court passed in W.P.Nos.17153 & 39836 of 2015 and 13878 of 2016, has passed order on 06.10.2017 fixing compensation for the loss incurred to the petitioner herein. According to the petitioner, the said order of the first respondent/District Collector is not in consonance with the guidelines and provisions of the Tamil Nadu Electricity Act 2003.

3.The first respondent/District Collector has filed counter narrating the scheme for which they entered upon the land of the petitioner and erected High Tension Transmission Tower. It is further stated in the counter that based on the field inspection, the loss was assessed and after getting the report from the officials of Agriculture/Horticulture Department, the damages to the coconut trees, turmeric plants and Nuna tree (Morinda Citrifolia) was assessed and a sum of Rs.22,40,235 was fixed as compensation. On 29.12.2017, the said amount was paid to the petitioner herein.

4.It is further submitted by the learned Additional Government Pleader appearing for the first respondent that, if the petitioner is aggrieved by the award passed by the first respondent/District Collector he has appellate remedy before the Civil Court and High Court cannot interfere in such matters as per the order of the Hon'ble Supreme Court rendered in Power Grid Corporation of India Vs. Century Textiles and Industries reported in (2017) 5 SCC 143.

5.Heard the learned counsel appearing for the petitioner; the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3 and perused the records.

6.The Hon'ble Supreme Court in Power Grid Corporation of India Vs. Century Textiles and Industries cited supra, has held as under

"27.At this stage, we deal with the direction of the Division Bench regarding compensation payable to the writ petitioner, or for that matter to the



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State Government. In the first instance, no such claim was laid by the writ petitioner in the writ petition or by the State Government before the High Court. Furthermore, the High Court could not have given this task to the District Collector, which is contrary to the provisions of Section 16 (c) of the Telegraph Act 1885, which are extended to laying down of electricity lines. As per this provision, such an authority vests with the District Judge.

28. These are sufficient reasons to allow Civil Appeal No.10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that of the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the district Judge concerned for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated 15.10.2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines."

7.The process of erecting transmission line has been undertaken by the respondents pursuant to the scheme cleared by the Government. The authority has entered upon the land of the petitioner by virtue of Section 10 of the Indian Telegraph Act. The Tamil Nadu Electricity Act 2003, has declared the second respondent as licensee and therefore, the process undertaken by the respondents herein is in-accordance with law and the said issue has already been settled by this Court in the previous judgments.

8.The grievance of the petitioner herein is that the compensation fixed by the first respondent/District Collector was as per Section 10 of the Electricity Act, is inadequate and not in-accordance with the guidelines. If the petitioner has such grievance, under Section 16(4) of the Indian Telegraph Act, he has got right to raise the above dispute before the Civil Court. In the similar circumstances, the Hon'ble Supreme Court in the Judgement cited supra has clarified the issue. Hence, this Court finds no merit in this writ petition. However, the petitioner is at liberty to approach the Civil Court if he is of the opinion that the compensation fixed by the first respondent/District Collector is inadequate.



9. With the above observation the Writ Petition is disposed of. No costs.

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//True Copy//

Sd/-

Assistant Registrar

Sub Assistant Registrar

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To

1. The District Collector,
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Salem.
2. The Chairman,
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No.144, Anna Salai,
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3. The Executive Engineer,
Transmission Line Construction Wing,
Tamil Nadu Transmission Company, [TNEB],
Udayapatty, Salem-14.

+lcc to Mr. Abdul Saleem, Advocate, S.R.No. 52139
+lcc to Mr. M. Venkatakrishnan, Advocate, S.R.No. 52770
+lcc to the Government Pleader, S.R.No. 52311

W.P.No.25948 of 2018

VD(CO)
GN(02/08/2019)