

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34517 of 2018

Selvaraj

Son of Kannan

.. Petitioner

-vs-

1. The District Collector
Office of the District Collector
Kancheepuram 631 501

2. The Superintending Engineer
General Construction Circle II
Alandur, Chennai 600 016

3. The Executive Engineer
Transmission Project
Chennai 600 016

4. The Assistant Engineer/Civil
Transmissions Project
General Construction-II
Alandur, Chennai 600 016

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 4 to remove the High Tension Electric Tower and drawing high power lines installed overhead the petitioner's residential house and further forbearing the respondents from installing any additional Electricity High Tension Tower/drawing high power lines overhead the residential "Kurai Veedu" situated in Survey No.157/3G in Veerapuram Village, Chengalpet Taluk, Kancheepuram District to an extent of 5 cents.

For Petitioner :: Mr.K.Sudalai Kannu

For Respondents :: Mr.K.Ravikumar
Additional Government Pleader for R1
Mr.Abdul Saleem
Standing Counsel for R2 to 4

ORDER

Mr.Selvaraj, Son of Kannan, claiming to be the owner of the land in Survey No.137/3 situate in Veerapuram Village, Chengalpet Taluk to an extent of 5 cents, by virtue of an order of assignment granted in favour of his father, namely, Kannan, S/o Thambiran by the Government of Tamil Nadu through the Tahsildar, Chenglepet on 21.7.84, has come to this Court seeking issuance of a writ of mandamus directing the respondents 1 to 4 to remove the High Tension Electric Tower and power lines installed over the petitioner's residential house with a further direction forbearing the respondents from installing any additional Electricity High Tension Tower/drawing high power lines over the residential "Kurai Veedu" situated in Survey No.157/3G in Veerapuram Village, Chengalpet Taluk, Kancheepuram District to an extent of 5 cents. According to the petitioner, his father was assigned with 5 cents of land in Survey No.137/3 in Veerapuram Village, Chengalpet Taluk by the Government of Tamil Nadu through the Tahsildar, Chengalpet on 21.7.84. After the death of his father, the petitioner and his brother Marimuthu jointly got the right over the property and a new joint patta no.51 was issued on 28.7.95. The learned counsel for the petitioner submitted that the petitioner and his brother have made oral partition and are enjoying the property by paying property tax to the concerned authority in the last 15 to 20 years. While so, all of a sudden, the respondents 2 to 4 have drawn the high power lines over the petitioner's property without giving any notice. As the high power lines drawn over the petitioner's residential house is having 230 KV, it is causing a potential risk of danger not only to his life, but also to the people residing nearby. Therefore, a representation has been given to the District Collector, Kancheepuram on 25.10.2018. Even before installing the high power lines, there was no response. However, as per Section 12(2) of the Indian Electricity Act, the Electricity Board is bound to get consent from the owner before laying the electric pole or tower. But this Court is able to see that the petitioner has quoted a wrong provision as though the respondents 2 to 4 are bound to get consent from the owner, because there is no such provision under the Indian Electricity Act.

2. It is at this stage, the learned standing counsel for the respondents 2 to 4 fairly stated that since the respondents have already erected the towers, now the petitioner has to approach only the District Collector, as per Section 17(2) of the Indian Telegraph Act, as the District Collector/Magistrate within whose jurisdiction the property is situate has to consider the request of the petitioner.

3. Since the respondents 2 to 4 have already erected the power lines over the petitioner's land/thatched shed, this Court, considering the limited prayer made by the petitioner, keeping in mind that the District Collector, Kancheepuram is the competent authority, as per Section 17(2) of the Indian Telegraph Act, hereby directs the District Collector, Kancheepuram to consider the petitioner's representation dated 25.10.2018. For the said purpose, the petitioner is also directed to furnish a copy of the said representation along with this order within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the first respondent shall consider the same and pass appropriate orders, after hearing both sides, within a period of six weeks thereafter. With this direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.K.Sudalai Kannu , Advocate SR.No. 35188 (01/07/2019)
+1 cc to Mr.Abdul Saleem,Advocate Sr.No.35956
+1 cc to Government Pleader,Sr.No.35771)

W.P.No.34517 of 2018

ppa(co)
mp(20/05/2019)
A.SK(01/07/2019)