



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Special Original Jurisdiction)

Friday, the Thirtieth day of August Two Thousand and Nineteen

PRESENT

The Hon'ble Mr. Justice N. SESHASAYEE

WMP(MD). No.14504 of 2019

in

WP(MD).No.10681 of 2019

Gangadevi Raj Purohit, W/o. M. Fusaram Raj Purohit,
Raj Purohit Villa, Plot No. 75, 2nd Floor,
4th Cross Street, M.K.B. Nagar,
Vyasarpadi, Chennai - 600 039.

... Petitioner/3rd Party

Vs

1 Suzlon Gujarat Wind Park Ltd., Rep. by its General Manager
T. Madhevan Pillai, No.116/9, Madurai Road,
Kayathar,
Tuticorin.

2 The District Collector,
Tuticorin District.

3 The Superintending Engineer, Non Conventional Energy Sources,
TANGEDCO, Tuticorin District.

4 The Superintendent of Police,
O/o. the Superintendent of Police, Tuticorin District.

5 The Deputy Superintendent of Police, Kovilpatti,
Tuticorin District.

6 The Inspector of Police, Kayathar, Tuticorin District.

... Respondents 2 to 6 /

Respondents 1 to 5

Prayer in WMP(MD). No.14504 of 2019 :-

Writ Miscellaneous Petition is filed under Article 226 of the Constitution of India, praying this Court to permit the petitioner to file the above Writ Miscellaneous Petition to recall the order dated 27.04.2019 passed in W.P(MD) No.10681 of 2019.

Prayer in WP(MD).No.10681 of 2019 :

<https://hcservices.ecourts.gov.in/hcservices/>



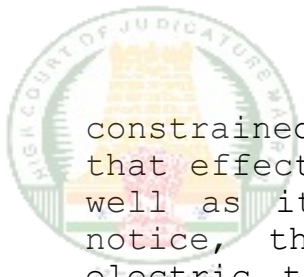
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondents 3 to 5 to provide adequate police protection to the petitioners company for erection of electric Poles and laying of Electric Pole Lines in terms of Memorandum of Understanding (MOU) made between the Government of Tamilnadu and M/S.Suzlon Energy Ltd., entered on 24/01/2019 to establish a 200 MW Wind Power plant Viz., New Villichery Project for supplying wind power to TANGEDCO by considering the petitioner's representation dated 23.04.2019 within the period that may be stipulated by this Court.

ORDER:- Writ Miscellaneous Petition is coming on for hearing on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. P.Subbiah, Senior Counsel For M/s.P.Jessi Jeeva Priya, Advocate for the Petitioner and of Mr. Ajmal Khan, Senior Counsel For M/s.Ajmal Associates, Advocate for the 1st Respondent, this Court made the following order:

The petitioner is a third party to WP(MD)No.10681 of 2019, has filed this petition to recall the order dated 27.04.2019 passed therein.

2. The petitioner in the writ petition has instituted the same seeking protection from certain unlawful, anti-social elements who were alleged to be interfering with certain contract work that it has entered into with the Government of Tamil Nadu/second respondent in the writ petition. Since the allegation was directed against certain local anti-social elements, in order to protect the interest of the petitioner arising out of the contract with the Government of Tamil Nadu, this Court directed the Deputy Superintendent of Police, Kovilpatti, Thoothukudi District, to take such appropriate decision as to protect the ongoing scheme.

3.1 The petitioner herein now alleges that on the strength of this Order, the writ petitioner/1st respondent is entering his private property, which the order of this Court has not authorised it to do. Expatiating his arguments, the learned Senior Counsel appearing for the petitioner would submit that the petitioner in the writ petition namely M/s.Suzlon Gujarat Wind Park Ltd., has entrusted some of its contractual obligations to be performed through its Sub-Contractor, that earlier to the filing of the writ petition, the Sub-Contractor had entered the property of this petitioner, and erected certain electric towers, that when it was opposed by the petitioner, the same came to be removed. It was thereafter, M/s.Suzlon Gujarat Wind Park Ltd., has come forward with the present writ petition camouflaging the prayer as if it was directed against certain anti-social elements. After securing this Order, the Sub-Contractor of M/s.Suzlon Gujarat Wind Park Ltd., attempted to enter into the properties of this petitioner and hence this petitioner was



constrained to prefer a complaint dated 22.07.2019. A notice to that effect was also issued to M/s.Suzlon Gujarat Wind Park Ltd., as well as its Sub-Contractor. In its reply to the petitioner's notice, the Sub Contractor has admitted about constructing the electric towers earlier in the properties of the petitioner, and also its subsequent removal following the objection by the petitioner, and that if at all any damage had occasioned thereby, the petitioner ought to approach only M/s.Suzlon Gujarat Wind Park Ltd., The reply also made a false statement that the writ petitioner have not entered the properties of the petitioner.

3.2 The learned Senior Counsel added that on the strength of the Order of this Court dated 27.04.2019, M/s.Suzlon Gujarat Wind Park Ltd., the petitioner in the writ petition has entered into the property of the petitioner on 13.08.2019 and thereafter on 16.08.2019, and it is causing acts of mischief in his property. It is hence the petitioner is keen to participate in this proceedings to recall the Order dated 27.04.2019 for denovo hearing.

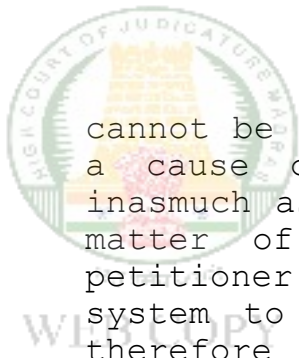
4. In response, the learned Senior Counsel appearing for the first respondent / M/s.Suzlon Gujarat Wind Park Ltd., made the following points :

(a) That M/s.Suzlon Gujarat Wind Park Ltd., has not entered, nor it is interested in entering in any of the properties listed in paragraph No.2 of petitioner's affidavit. Nor, it has erected any electric tower/pole in any of these properties.

(b) If at all the petitioner has a cause of action that M/s. Suzlon Gujarat Wind Park Ltd., has entered its properties unlawfully, then that provides an independent cause of action, and it has to be challenged independently.

5. Arguing further, the learned counsel submitted that the order has directed police protection only if such interference from such anti-social elements, and if at all the petitioner is aggrieved that his private right is violated then that cannot be brought within the ambit of cause of action of the petitioner that came to be remedied by the Order of this Court.

6. The submissions made on either side is carefully weighed. First, it has to be made clear, and made known that the Order does not specify in relation to which property, the protection ought to be given. Now this has to be seen in the context of the statement made by the learned counsel for the first respondent / M/s.Suzlon Gujarat Wind Park Ltd., that it has not entered in any of the 28 items of properties mentioned in paragraph No.2 of the affidavit of the petitioner. In the face of the statement, whether M/s.Suzlon Gujarat Wind Park Ltd., has actually entered into the properties of the petitioner, or is it now making a false statement through its counsel, is all matters which need to be investigated and this



cannot be done conveniently in this matter. If the petitioner has a cause of action against M/s.Suzlon Gujarat Wind Park Ltd., inasmuch as neither the properties of the petitioner is the subject matter of the Order of this Court dated 27.04.2019 nor the petitioner is a party to the proceedings, he has space within the system to agitate it in the manner known to law. This Court, therefore finds that the Order dated 27.04.2019 passed in WP(MD) No.10681 of 2019 is within the scope of the allegations made before it, is intact, and the petitioner may institute a separate proceedings, if he is so desirous. This petition is disposed of accordingly.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

TO

1 The District Collector, Tuticorin District.

2 The Superintending Engineer, Non Conventional Energy Sources, TANGEDCO, Tuticorin District.

3 The Superintendent of Police,
O/o. the Superintendent of Police,
Tuticorin District.

4 The Deputy Superintendent of Police,
Kovilpatti,
Tuticorin District.

5 The Inspector of Police,
Kayathar,
Tuticorin District.

+1cc to M/s.P.Jessi Jeeva Priya, Advocate, SR No.84776
ORDER DATED : 30/08/2019

ORDER

WMP(MD) . No.14504 of 2019

Giving direction and etc.
as stated within.