



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD) No.20704 of 2019

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Yamuna Kannan

... Petitioner

vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.Suzlon Gujarat Wind Park Ltd.,
by its General Manager,
No.26, Cross Road, Maharaja Nagar,
Tirunelveli - 11.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to conduct an enquiry by considering the Petitioners representation dated 15.07.2019 and pass orders in accordance with law for the removal of transmission poles constructed in the land of the Petitioner bearing Survey Nos.546/5 547/1, 547/2A, 545/2, 555/2 in Ottapidaram Village, Thoothukudi District.

For Petitioner : Mr.S.Shanmugavel

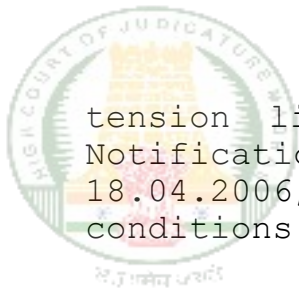
For Respondents : Mr.M.Rajarajan
Government Advocate

O R D E R

This Writ Petition is filed seeking a direction to the first respondent to conduct an enquiry by considering the petitioner's representation dated 15.07.2019 and pass orders in accordance with law for removal of transmission poles constructed in the land of the petitioner bearing Survey Nos.546/5 547/1, 547/2A, 545/2, 555/2 in Ottapidaram Village, Thoothukudi District.

2.By consent, the writ petition is taken up for final disposal at the stage of admission itself. In view of the order going to be passed hereunder, no notice is required to the second respondent.

3.The petitioner is the owner of certain lands in Thoothukudi District. The second respondent/Wind Mill Company has erected high



tension lines across the lands of the petitioner. As per the Notification of the Government of India Ministry of Power, dated 18.04.2006, license can be given subject to the following conditions:

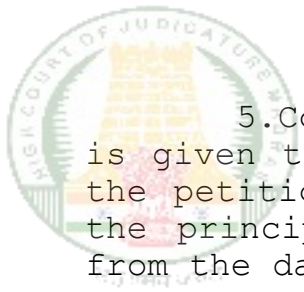
"Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier or any building or land on which any works have been carried out or any support of an overhead line, stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorised may by order in writing direct for any such works, support, stay or strut to be removed or altered.

(2)When making an order under sub-rule (1), the District Magistrate or the Commissioner of Police or the officer so authorised, as the case may be, shall fix, after considering the representations of the concerned persons, if any, the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(3)Every order made by a District Magistrate or a Commissioner of Police or an authorised officer under sub-rule (1) shall be subject to revision by the Appropriate Commission."

4.It is incumbent on the Wind Mill company to consider the objections raised by the land owner or occupier of the building or land and if there is any objection, the company shall obtain permission from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government. If electrical lines are already drawn and poles are already erected, it is open to the District Magistrate to hear the objections and order alteration or removal of such erection. In that course, the concerned authority shall also consider the amount of compensation or annual rent or of both to be paid by the licensee to the owner or occupier. Against that order, there will be a remedy of revision to the Commission is available. Without following any of the procedures, it appears that the second respondent has erected the power lines. Aggrieved over the same, the petitioner made a representation dated 15.07.2019 to the first respondent. Since the first respondent has not considered the same, the petitioner is before this Court for disposal of the same.



5.Considering the legal right of the petitioner, a direction is given to the first respondent to consider the representation of the petitioner dated 15.07.2019 and pass orders in compliance with the principles of natural justice, within a period of four weeks from the date of receipt of a copy of this order.

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6.The writ petition is disposed of with the above direction.
No costs.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar (CS-)

To

The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-90061[F] dated 27/09/2019)
+1 CC to M/s.GP (SR-90237[F] dated 27/09/2019)

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26.09.2019

mj

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