

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.6748 of 2020
and WMP No.8023 of 2020

L.Karthikeyan

...Petitioner

-Vs-

1. The Collector,
Tiruppur District,
Tiruppur.

2. The General Manager,
Power Grid Corporation of India,
Karur to Kovai Road,
K.Paramathi,
Karur District.

3. The Superintendent of Police,
Tiruppur District,
Tiruppur.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 and 2 from proceedings with the erection of tower line in the land of the petitioner situated in S.No.283/D of Senapathypalayam Village, Kangayam Taluk, Tiruppur District for establishment of 400 KV AC Power Transmission System with HVDL terminal station at Pugalur from Pugalur to Thiruvalam without fixing any compensation by the 1st respondent.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Mr.A.Aruldoss,
Government Advocate for R1, R3
Mr.R.Thiyagarajan,
Senior Counsel
M/s.Aiyar and Doila for R2

O R D E R

This writ petition has been filed for the issue of writ of Mandamus forbearing the 2nd respondent from erecting any Tower line in the property belonging to the petitioner.

2. The case of the petitioner is that he is the owner of the property and there is a patta standing in his name. The Government of Tamil Nadu has approved a project for establishing a transmission line and the 2nd respondent is in the process of undertaking the project.

3. The grievance of the petitioner is that he has objected the entry of the 2nd respondent into his property and without any enquiry conducted by the 1st respondent, the 2nd respondent is proceeding further to erect a tower line in the property belonging to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Mr.S.Doraiswamy, learned counsel appearing for the petitioner submitted that the 1st respondent has to conduct an enquiry based on the objection made by the petitioner and compensation must also be fixed before erecting the tower lines. The learned counsel in order to substantiate his submissions, relied upon the judgement of the Division Bench of this Court in [S.Selvaraj Vs. The District Collector and others] in WA No.2032 of 2019 etc batch, dated 16.08.2019. The learned counsel specifically relied upon Paragraph No.30 of the order and the same is extracted hereunder :-

30. However, in the larger public interest, we also issue the following directions:-

I. The respondents are directed to ensure 100% completion on war footing of the works of establishment of 400KV DC Line with Quad Moose ACSR from Rasipalayam 400 KV SS to Dharmapuri (Palavadi) 400 KV SS and erection of 230 KV SC Line on DC Towers from Arasur 400 KV SS (PGCIL) to Ingur 230 KV SS (Line D), which project has been stalled owing to successive litigations in various course and prolonging of such litigations effectively by the writ appellants and by other land owners;

II. The respondents are specifically directed to ensure completion of the project as expeditiously as possible particularly also since the projects have been funded by grant under the National Clean Energy Fund from Government of India and soft loan from M/s.

KfW, German Funding Agency;

III. The District Collector is directed to ensure that enquires are conducted and orders are passed without any delay with respect to payment of compensation and if any objections are raised by holding enquiry on a day-to-day basis and if necessary to form a separate Cell for such enquiry; and finally,

IV. The respondents are specifically granted permission to enter upon the lands of the appellants and such other land owners, who had raised objections and ensure that the towers are erected and overhead lines are drawn without any further delay.

5. The learned counsel submitted that the petitioner was not served with any notice and no enquiry was conducted and in spite of the same, the 2nd respondent is proceeding further to erect the tower line in the property belonging to the petitioner.

6. Per contra, Mr.R.Thiyagarajan, learned Senior counsel appearing on behalf of the 2nd respondent submitted that the 1st respondent had taken into consideration the objections made by all the land owners and has passed an order dated 14.09.2019, by granting permission to the 2nd respondent to erect the tower line. The learned senior counsel submitted that the grant of compensation cannot be made as a condition precedent for the 2nd respondent to proceed further with the erection of the tower line and it is an independent exercise that needs to be carried out by the 1st respondent.

7. The learned Government Advocate appearing on behalf of the 1st respondent submitted that the 1st respondent had issued notice to all the owners of the property and only after conducting an enquiry, the final orders were passed on 14.09.2019. The learned counsel further submitted that the petitioner was represented by one Rajamani and only after hearing his representative, the final orders were passed by the 1st respondent.

8. In reply to the said submission, the learned counsel for the petitioner submitted that no notice was served on the petitioner and the petitioner did not authorise any one to represent him in the enquiry conducted by the 1st respondent.

9. This Court passed the following order on 16.03.2020 and the same is extracted hereunder :-

The learned Government Advocate appearing on behalf of the 1st respondent is directed to produce the file and establish before this Court that the notice was served on the petitioner before the enquiry was conducted by the Collector. From the papers that have been submitted today, it is seen that the notice was not initially served on the petitioner and ultimately one Rajamani had represented the petitioner during enquiry.

2.The learned counsel for the petitioner specifically states that no notice was served on the petitioner and no one was authorized to represent the petitioner.

3.In view of the specific stand taken by the learned counsel for the petitioner, this Court must be satisfied that the petitioner was issued with notice before the enquiry was conducted and the petitioner authorized Rajamani to appear on behalf of him during the enquiry.

4.Post this case at the end of the motion list on 18.03.2020.

10. Pursuant to the above order, the learned Government Advocate furnished the entire file. On going through the files, it is seen that there is no proof for serving any notice on the petitioner. There is absolutely no material to show that the petitioner had authorised any one to represent him during the enquiry before the 1st respondent. It is not known on what basis one Rajamani was allowed to represent the petitioner without petitioner giving any specific authorisation to the said Rajamani.

11. In the considered view of this Court, the petitioner has not been afforded an opportunity by the 1st respondent before the final orders were passed on 14.09.2019. The petitioner is entitled to be heard, before any orders are passed by the 1st respondent. The law on this issue is well settled.

12. The Division Bench judgement that has been relied upon by the learned counsel for the petitioner clearly states that the compensation must be determined without any delay and the same should be paid to the owner of the property. The payment of compensation has not been made as a condition precedent for the authorities to proceed further with the work once the permission is granted by the Collector. The same is clear from the

direction issued by the Division Bench. Therefore, it is not necessary that only after the determination of compensation, the 2nd respondent can proceed further with the work. What is required is only an order passed by the Collector permitting the concerned authority from proceeding further with the work, after considering the objections of the owners of the property.

13. In view of the above, the petitioner is directed to submit his objections before the 1st respondent and also furnish necessary particulars, if he is claiming for any compensation for the property, within a period of two weeks from the date of receipt of copy of this order. The 1st respondent on receipt of such objection, shall pass final orders, within a period of four weeks from the date of receipt of the objections from the petitioner. Till then, status quo shall be maintained. It is made clear that the 1st respondent shall independently determine the compensation payable to the petitioner as expeditiously as possible.

14. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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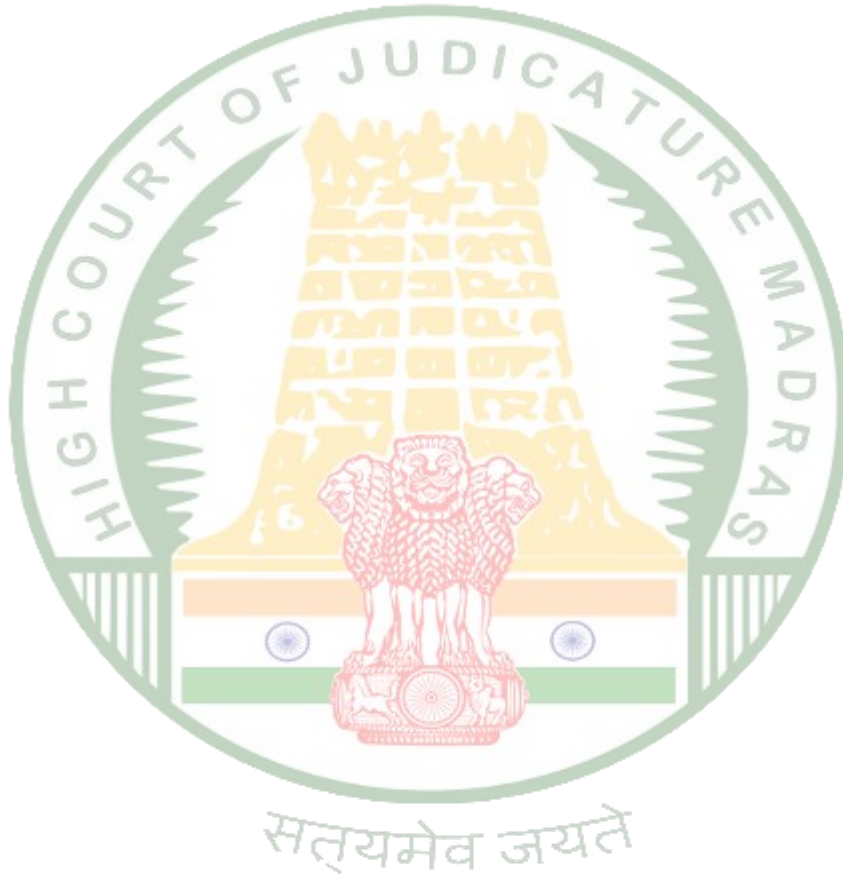
To

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Karur District.
3. The Superintendent of Police,
Tiruppur District,
Tiruppur.

+1 cc to M/s.S.Doraisamy Advocate sr24356
+1 cc to M/s.Aiyar & Dolia Advocate sr24297
+1 cc to Government pleader sr24306

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