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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7196 of 2020

R. Poonappan

... Petitioner

vs.

1. The Principal Secretary to Government,
Electricity Department,
Secretariat, Chennai - 600 009.
2. The District Collector,
Salem District.
3. The Chairman,
Tamil Nadu Generation and Distribution,
Corporation Ltd (TANGEDCO),
NPKRR Maligai, IV Floor,
144, Anna Salai, Chennai - 600 002.
4. The Superintending Engineer,
TANGEDCO, Enforcement Sub Circle,
Udayapatti, Salem District - 636 140.
5. The Executive Engineer,
TANGEDCO, Enforcement Sub Division,
Udayapatti, Salem District - 636 140.
6. The Assistant Executive Engineer,
TANGEDCO, Enforcement Sub Division,
Udayapatti, Salem District - 636 140.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner with regard to payment of due compensation for the loss and damages caused in the erection of high power tower and pass orders within a limited time frame in the light of the petitioner representation dated 13.01.2020.



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For Petitioner : Mr.G. Punniakoti

For Respondents : Mr.E. Balamurugan
Special Govt. Pleader [R1 & R3]

Mr.Abdul Saleem
Standing Counsel [R3 & R6]

ORDER

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the respondents to consider the claim made by the petitioner wherein, the petitioner is claiming for enhanced compensation.

2. The case of the petitioner is that the TANGEDCO had undertaken to lay a 400 K.V. line from Mettur Perumal Power Project Stage III to Thiruvallam. The petitioner claims that an extent of 50 cents of his property was also taken over towards this scheme.

3. The grievance of the petitioner is that the petitioner was paid only a sum of Rs.48,148/- (Rupees Forty eight thousand one hundred and forty eight only) towards compensation and whereas he is entitled for a sum of Rs.36,04,540/-(Rupees Thirty six lakhs four thousand five hundred and forty).

4. The petitioner made a representation in this regard to the respondents seeking for enhanced compensation. Since the same was not considered, the present writ petition has been filed before this Court seeking for appropriate directions.

5. The learned counsel appearing on behalf of the TANGEDCO submitted that the petitioner cannot seek for an enhanced compensation before the respondents. In order to substantiate the said submission, the learned counsel relied upon the Section 16(3) of the Indian Telegraph Act, 1885. The said provision is extracted hereunder:

"16. Exercise of powers conferred by Section 10, and disputes as to compensation, in case of property other than that of a local authority
.....

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under Section 10, clause(d), it shall, on application



for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

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6. The learned counsel further relied upon the judgment of the Hon'ble Supreme Court in the case of Power Grid Corporation of India Ltd. Vs. Century Textiles and Industries Limited and Ors. [reported in 2017 5 SCC 143]. The learned counsel specifically placed reliance upon paragraphs 27 and 28 of the judgment and the same are extracted hereunder:

"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 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 if 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 learned counsel by placing reliance upon the above provision of law and the judgment of the Hon'ble Supreme Court submitted that if at all the petitioner is seeking for an enhanced compensation, he can only make an appropriate application before the District Judge within whose jurisdiction



the property is situate. The learned counsel submitted that the Hon'ble Supreme Court made it very clear that the District Collector cannot undertake this exercise and it is only the concerned District Court Judge who can go into this issue.

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8. The learned counsel appearing on behalf of the petitioner submitted that the petitioner has lost a very valuable property and he has been paid a very paltry amount as compensation and the learned counsel further submitted that as against an enhanced claim, a sum of Rs.48,148/- (Rupees Forty eight thousand one hundred and forty eight only) only was paid to the petitioner. The learned counsel submitted the petitioner must be given liberty to move the appropriate District Court to seek for the enhanced compensation.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. The sum and substance of the issue involved in the present writ petition is with regard to the Authority before whom the petitioner can seek for an enhanced compensation. The petitioner is seeking for enhancement of compensation from the District Collector and the authorities belonging to the TANGEDCO and already the petitioner has been granted a compensation of a sum of Rs.48,148/- (Rupees Forty eight thousand one hundred and forty eight only). The petitioner is not satisfied with this compensation. The Hon'ble Supreme Court in the judgment that has been referred to supra, has categorically held that the District Collector cannot go into this issue and the jurisdiction is only vested with the District Court. This is clear from reading of Section 16(3) of the Indian Telegraph Act, 1885.

11. In view of the above, the petitioner cannot seek for enhancement of compensation before the respondents and therefore liberty is granted to the petitioner to file an appropriate petition before the District Court within whose jurisdiction the property is situate and seek enhancement of compensation and the same shall be considered by the learned District Judge strictly in accordance with law after giving an opportunity to the TANGEDCO. Except for giving this liberty, no further orders can be passed in the present writ petition.



This writ petition is disposed of with the above directions.
No costs.

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Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

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+1 cc to M/s.G.Ponniakotti Advocate sr24454

+1 cc to the Government Pleader sr24580

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