

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.15995 of 2020
and WMP.No.19905 of 2020

V.Rajan

...Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Coimbatore.

2. The Tashildar,
Office of the Tashildar,
Kinathukadavu Taluk,
Kinathukadavu,
Coimbatore District.

3. Power Grid Corporation of India Limited,
Rep. By its Deputy General Manager,
Myvadi Village,
Madathukulam Taluk,
Tiruppur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus, directing the first respondent to review the order passed against the petitioner in Na.Ka.No.23712/2019/E2 dated 16.02.2020 in the light of the order passed by the first respondent in Na.Ka.No.25629/2018/E2 dated 18.08.2020 passed in favour of one M.Velusamy as per my representation dated 10.10.2020 and till such time not to permit the 3rd respondent or his men from entering into the land of the petitioner in S.Nos.147/2A, 147/2B, 147/2C and 147/2D1 of Kattampatti Village, Kinathukadavu Taluk, Coimbatore District for erecting tower line.

For Petitioner : Mr.S.Doraisamy, Senior Counsel

For Respondents : Mr.K.Parameshwaran R1 & R2
Government Advocate
Mr.R. Thiagarajan R3
for M/s.Iyer and Dolia

O R D E R

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the first respondent to review the order passed against the petitioner on 16.02.2020 by considering the representation made by the petitioner on 10.10.2020.

2. The petitioner is the owner of the subject properties and he is doing agricultural activities in the said properties. The third respondent was attempting to erect towers and draw the electric lines across the property belonging to the petitioner. The petitioner objected for the same and hence, the third respondent filed an application before the first respondent seeking for permission to enter into the property. The first respondent by an order dated 16.02.2020 granted permission to the third respondent to enter upon the property to proceed further with the work.

3. The petitioner made a representation on 10.10.2020 to the effect that there is an alternative route that is available for drawing the line and a similar request was also considered by the first respondent in his proceedings dated 18.08.2020. The petitioner therefore wanted the first respondent to review the earlier order and direct the third respondent to draw the line through the alternative route. Since the same was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

4. Heard Mr.S.Doraisamy, learned Senior Counsel appearing on behalf of petitioner, Mr.K.Parameshwaran, learned Government Advocate appearing on behalf respondents 1 and 2 and Mr.R.Thiagarajan, learned Senior Counsel for M/s.Iyer and Dolia, appearing on behalf of the third respondent.

5. The learned Senior Counsel appearing on behalf the third respondent submitted that the tower has already been erected and the stringing work is also over and therefore, there is no scope for the 1st respondent to now review his earlier order. The learned Senior Counsel further submitted that the first respondent lacks jurisdiction to review his own order.

6. The learned counsel for the petitioner submitted that it is always within the powers of the first respondent to consider if there is any alternative route to lay the towers and proceed further with the work and such a power was in fact exercised in considering the objections of one Velusamy while passing the orders on 18.08.2020. The learned Counsel submitted that in the present case, such an alternate route was available and the same was not considered by the first respondent and therefore, a representation was made by the petitioner to review the earlier order passed on 16.02.2020.

7.The power of review is a creature of statute and no Court or quasi-judicial body or administrative authority can review its judgement or order or its decision unless it is legally empowered to do so. Useful reference can be made to the judgment of Hon'ble Supreme Court in Haryana State Industrial Development Corporation Ltd. vs. Mawasi reported in 2012 4 CTC 554.

8. In the present case, the 1st respondent does not possess the power of review under the Indian Telegraph Act and therefore, the representation made by the petitioner seeking for review of the earlier order passed on 16.02.2020 is totally unsustainable.

9. That apart, erecting the tower and laying the wire through an alternative route is a matter which falls within the realm of experts. This Court does not ordinarily issue directions in this regard and it is always safe to leave it to decision of experts.

10. In view of the above discussion, this Court is not inclined to entertain the present Writ Petition and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Office of the District Collector,
Coimbatore.

2. The Tashildar,
Office of the Tashildar,
Kinathukadavu Taluk,
Kinathukadavu,
Coimbatore District.

+1cc to M/s.S.Doraisamy, Advocate, S.R.No.36238
+1cc to the Government Pleader, S.R.No.36482

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NRL (CO)
RV (08/12/2020)