

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :24.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32820 of 2017
WMP.No. 36167 of 2017

1. V. Ranganathan
2. V. Vembuli ...Petitioners

-vs-

1. The Chairman,
Tamil Nadu Generation & Distribution,
Corporation Limited,
N.P.K.R. Ramasamy Maligai,
144, Anna Salai, Chennai - 600 002.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle - II,
Guindy, Chennai - 600 032.
3. District Collector,
Kancheepuram District,
Kancheepuram - 631 501. ...Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to Lr.No.SE/GCC-II/CNI/F. Court Case/D.1570/2017 dated 07.11.2017 issued to the petitioners and to quash the same and consequently direct the 2nd respondent to grant appropriate compensation to the petitioners in respect of the acquisition of the petitioners' land measuring an extent of 3400 sq.ft., comprising in survey Nos.560/1 and 564/1A2, situated in Pallavaram Village, Kancheepuram District.

For Petitioners : Mr.V.Z.Victor

For Respondents : Mr.M.Vijaya Mehanath
for Mr.Abdul Saleem [R1 & R2]

Mr.M.D.Ilayaraja
Government Advocate [R3]

ORDER

Heard Mr.V.Z.Victor, learned counsel for the petitioners, Mr.M.Vijaya Mehanath, for Mr.Abdul Saleem, learned counsel for respondents 1 and 2 and Mr.M.D. Ilayaraja, learned Government Advocate for the 3rd respondent.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioner has filed this writ petition challenging an order passed by the 2nd respondent dated 07.11.2017, by which, the request made by the petitioner for payment of compensation for the lands, which were utilised for erecting a High Tension Tower was rejected by the 2nd respondent. The 2nd respondent was not aware of the legal position and rejected the request. What the 2nd respondent should have done was that he should have forwarded the request to the 3rd respondent for consideration and without doing so, should not have rejected the representation. Therefore, the impugned order is illegal.

4. Having held so, it has to be seen that what relief the petitioner is entitled to. The petitioners are claiming compensation for the land, which has been utilised by the respondents 1 and 2 for erecting High Tension Tower. This issue was considered by the Government of Tamil Nadu, Ministry of Power and Guidelines were framed for payment of compensation towards damages in regard to Right of Way for transmission lines in proceeding dated 15.10.2015

5. The Central Government requested all the States and Union Territories to take suitable decision regarding adoption of the guidelines considering as acquisition of land is a State subject. The Government of Tamil Nadu adopted the guidelines only on 22.11.2017 by passing G.O.Ms.No.63. Even, at that point of time, they adopted only for new projects with prospective effect. It is not clear as to what was the justification for the Government to pass the order prospective because the land owner should be adequately compensated. However, subsequently the Government appears to had a fresh thought process and G.O.(Ms)No.86, Energy (Al) Department dated 30.10.2019 has been passed, which does not make it prospective, but takes care of the interest of the land owner/loser. Therefore, the compensation payable to the petitioner is required to be computed in terms of G.O.Ms.No.86 dated 30.10.2019 for which purpose, the 3rd respondent should take action.

6. For the above reasons, the writ petition is allowed and the impugned order is quashed and the matter is directed to be placed before the 3rd respondent, who shall consider the petitioner's request and after hearing the 2nd respondent/Officers and the petitioner pass a speaking order

fixing the compensation payable to the petitioner by adopting the guidelines issued in G.O.Ms.No.86 dated 30.10.2019 and the petitioner is at liberty to produce all documents in support of his claim. No costs. Connected miscellaneous petition is closed.

The above exercise shall be commenced and concluded expeditiously not later than two months from the date of receipt of a copy of this order.

mp

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Generation & Distribution,
Corporation Limited,
N.P.K.R. Ramasamy Maligai,
144, Anna Salai, Chennai - 600 002.
 2. The Superintending Engineer,
Tamil Nadu Electricity Board,
General Construction Circle - II,
Guindy, Chennai - 600 032.
 3. District Collector,
Kancheepuram District,
Kancheepuram - 631 501.
- +1cc to Mr.V.Z.Victor, Advocate SR.No.15624
+1cc to M/s Abdul Saleem, Advocate SR.No.16123
+1cc to Government Pleader SR.No.16207

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W.P.No.32820 of 2017
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nmi (CO)
mst(28/05/2020)