



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD) No.4930 of 2020

and

W.M.P. (MD) No.4302 of 2020

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K.Eswaramoorthy

... Petitioner

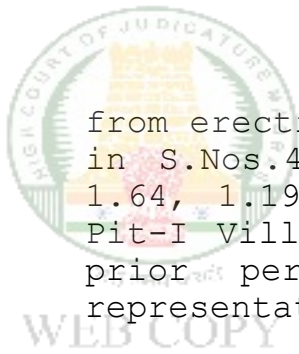
/vs./

- 1.The District Collector,
Karur District,
Karur.
- 2.The Chief Manager,
Power Grid Corporation India Limited,
400/230 KV Substation,
K.Paramathi (Po),
Karur District.
- 3.The Chairman/Managing Director,
Tamilnadu General and Distribution Corporation Limited,
10th Floor, NPKRR Maligai,
No.144, Anna Salai,
Chennai 2.
- 4.The Tahsildar,
Aravakurichi Taluk,
Karur District.
- 5.Spring Renewable Energy Private Limited,
#001 Level G.Pentagon PS.
Magarpatta City,
Hadapsar,
Pune-411013,
represented by its Managing Director.
- 6.M/s.KS Wind & Renewables India Private Limited,
represented by its Operation Head Mr.P.Kumar,
Having its Corporate Office at
D.No.40, Visalakshi Street,
Aiswarya Garden,
Goparasanallur,
Poonamallee,
Chennai 600 056.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the respondents

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from erecting high tension electrical tower and 230 KV electric wire in S.Nos.474/1, 483B, 485/2, 486/1, 899B, to an extent of 0.76, 1.64, 1.19, 1.10 and 0.50 Hectares, situated at Gudalur Keelpagam Pit-I Village, Aravakurichi Taluk, Karur District, without getting prior permission from the 1st respondent based upon the representation of the petitioner dated 26.02.2020.

For Petitioner : Mr.S.Gokul Raj
For R1 & R4 : Mrs.J.Padmavathi Devi
Special Government Pleader
For R2 : M/S.Ayyar and Dolia
For R3 : Mrs.S.Rajeswari for
M/S.SMS.Johnny Basha

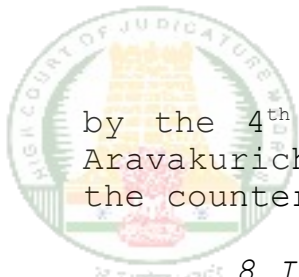
ORDER

The writ petitioner, K.Eswaramorrthy, S/o.Kittusamygoundar, Molaiyandipatti, C.Gudalur Post, Aravakurichi Taluk, Karur District, has filed the present writ petition in the nature of mandamus seeking a direction to forebear the respondents from erecting High Tension Electrical Tower and 230 KV Electric Wire in S.Nos.474/1, 483B, 485/2, 486/1 and 899B to an extent of 0.76, 1.64, 1.19, 1.10 and 0.50 Hectares in Gudalur Keelpagam Pit-I Village, Aravakurichi Taluk, Karur District, without getting prior permission from the 1st respondent, namely, The District Collector, Karur.

2.In the affidavit filed in support of this petition, the writ petitioner had stated that he is the owner of the property in S.Nos.474/1, 483B, 485/2, 486/11 and 899B to an extent of 0.76, 1.64, 1.19, 1.10 and 0.50 Hectares in Gudalur Keelpagam Pit-I Village, Aravakurichi Taluk, Karur District. He is doing agricultural activities in the said land. He is also in possession of the said land.

3.In the affidavit, it is also claimed that in December 2019, few strangers claimed to be the representatives of the respondents 5 and 6, namely, M/s.Spring ReneWable Energy Private Limited, Pune and M/s.KS.Wind and Renewables India Private Limited, Chennai, had approached the villagers including the petitioner and had asserted that High Tension Electric Tower and Electric Line are to be erected in the village and that it would go across the line of the petitioner. They had stated that if the villagers objected, they would give a police complaint. They threatened the villagers. Therefore, the petitioner had in thus circumstances filed the present writ petition seeking a relief as stated above.

4.A counter has been filed on behalf of the respondents 1 and 4
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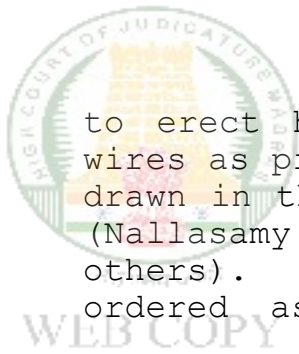
by the 4th respondent. The 4th respondent, namely, The Tahsildar, Aravakurichi Taluk, Karur District had very specifically stated in the counter as follows:

8.I state that the State Government or District Administration or its authorities are no way concerned with the execution of contract by the respondent private company or its agent, since the respondents 5 and 6 are private contractors and not the State or Central Government. The respondents 5 and 6 are executing the contract in the course of its private business contract for profit and not a service to the public. Any obstacle or interruption in the execution of contract should be met out at their own risk. Hence the respondents 5 and 6 who are private companies have no legitimate right to claim any assistance from the government or its authorities for their private dispute with land owners in execution of their contract for the purpose of trespassing into the private land owners with whom private negotiation could be fructified.

9.I state that on the complaints of writ petitioner and similar complaints from other villagers, spot inspection was made by 4th respondent and his officials and informed the 6th respondent that their execution of work by private negotiation with the patta land owners is a private contract and the 6th respondent was issued strict instructions that they should not enter into any private patta lands without the explicit consent of the said land owners and there is no objection for the 6th respondent to erect the towers in the patta lands if land owners gives consent for mutually agreed compensation. In the event, the respondents 5 and 6 without any express consent from land owners erects the High Tension Tower in their patta lands, suitable action would be taken against them for illegal trespass in accordance with law.

5.It is very seen that no prior permission had been granted to the respondents 5 and 6 to enter upon any land to erect high tension electrical tower and to draw high electric wires. They can do so only if, the private land owners give consent. The petitioner herein has not given his consent. Therefore, the respondents 5 and 6 have no manner of right to enter into the land of the petitioner to erect high tension electrical tower or to draw high electric wires.

6.The learned counsel further would state that the respondents 5 and 6 have not even approached the third respondent seeking permission to erect high tension electrical tower or to draw high electric wires. It is thus seen that the entire act of the respondents 5 and 6 are unlawful and illegal. They cannot enter into the land particularly, the property of the petitioner



to erect high tension electrical tower or to draw high electric wires as proposed by them. In this connection, my attention is also drawn in the order of this Court passed in W.P.(MD)No.29296 of 2019 (Nallasamy Vs. The District Collector, Collectorate, Tiruppur and others). By order dated 05.11.2019, the learned Single Judge had ordered as follows:

3. The petitioner herein is the owner of the land to an extent of 2.21 acres in S.No.610 at at Kannivadi Village, Dharapuram Taluk, Tiruppur District. Alleging that on 13.09.2019, the fifth respondent who is the contractor of the fourth respondent with an intention of erecting poles in his land has brought material. Without prior permission or notice, the fourth respondent and his men are trying to erect transmission pole in his land. Hence, he gave a representation to the District Collector. But, there is no action. Hence, the present Writ Petition.

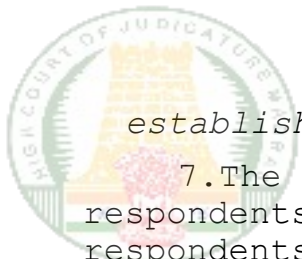
4. One Mr.Kumar has filed counter affidavit on behalf of the fourth respondent and fifth respondents stating that they are carrying on tower erection activity on behalf of the Government of India and they have sought for the consent of the land owners. They are ready to compensate the land owners for the damage cause regarding the right of way for transmission lines.

5. Whereas, in the reply affidavit filed by the District Collector, it is stated as follows:-

"5.....private concern carrying out the tower erection work for its own business not for service to the public, being thus, any obstacles in erecting tower should be meet out by the private concern on their own risk and they have no right to claim the assistance of Government machineries for their own business. This W.P 22376/2019 is pending before this Court.

6. I submit that no high tension tower or tower lines have been formed in the petitioner's land. However the said private concern was strictly instructed that not to commence the tower line erection works in the petitioner's land and also any other private land without getting consent from the land owners. Further the field level Revenue Officials are strictly instructed to keep vigilance in this regard."

6. From the reply affidavit of the District Collector is clear that the respondents 4 and 5 without proper authority attempting to enter upon the land of the petitioner for erecting tower lines. Hence, it is without authority and against the procedure



established under law, such act cannot be permitted.

7.The facts are very similar. Even in this case, the respondents 5 and 6 have not been granted specific permission by the respondents 1 and 4. The petitioner herein has not granted his consent. Therefore, a mandamus is issued to the respondents herein forbearing them from putting up any tower in the land of the petitioner in S.Nos.474/1, 483B, 485/2, 486/1 and 899B to an extent of 0.76, 1.64, 1.19, 1.10 and 0.50 Hectares in Gudalur Keelpagam Pit-I Village, Aravakurichi Taluk, Karur District, particularly any High Tension Electrical Tower or 230 KV Electric Wire across the said land. It is also seen that though notice has been served on the respondents 5 and 6 and their names have been printed in the cause list, they have decided to stay away from participating in the judicial proceedings.

8.With the above directions, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

mm

To

- 1.The District Collector,
Karur District,
Karur.
- 2.The Chief Manager,
Power Grid Corporation India Limited,
400/230 KV Substation,
K.Paramathi (Po),
Karur District.
- 3.The Chairman/Managing Director,
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No.144, Anna Salai,
Chennai 2.
- 4.The Tahsildar,
Aravakurichi Taluk,



Karur District.

+1 CC to M/s.S.GOKUL RAJ, Advocate (SR-10649[F] dated 09/03/2020)

+1 CC to M/s.SPL.GP (SR-10772[F] dated 10/03/2020)

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