



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.16838 of 2015

V.Chithiravelu

... Petitioner

Vs.

1.Superintending Engineer,
General Construction Circle,
Tamilnadu Electricity Board,
Madurai.

2.The Assistant Engineer,
TLC, Virudhunagar.

3.The Tahsildar,
Virudhunagar.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the respondents to refix the compensation for the land acquired in S.No.281/2 as Rs.5,00,000/- and disburse the same to the petitioner within the time frame fixed by this Court.

For Petitioner	:	M/s.Lakshmi Gopinathan
For Respondents	:	Mrs.Rajeswari for R1 and R2 for M/S.SMS.Johnny Basha, Standing Counsel

Mrs.M.Rajeswari for R3
Government Advocate

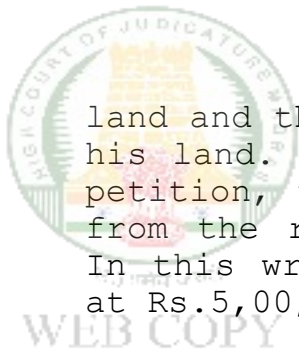
ORDER

(This writ petition is heard through Video Conference)

This writ petition has been filed for a mandamus seeking for a direction to the respondents to refix the compensation for the land acquired in S.No.281/1 as Rs.5,00,000/- and disburse the same to the petitioner within the time stipulated by this Court.

2.Heard Mrs.Lakshmi Gopinathan, learned counsel for the petitioner, Mrs.Rajeswari, learned counsel, for M/s.SMS Johnny Basha, learned Standing counsel for the respondents 1 and 2 and Mrs.M.Rajeswari, learned Government Advocate, for the third respondent.

3.It is the contention of the petitioner that the respondents have erected electricity tower in the middle of the petitioner's



land and therefore, he is unable to effectively utilise two acres of his land. As seen from the affidavit filed in support of the writ petition, the petitioner has received a compensation of Rs.28,000/- from the respondents for erecting electricity towers in his land. In this writ petition, he seeks for refixation of the compensation at Rs.5,00,000/-.

4.Under Section 16 of the Indian Telegraph Act, 1885, the respondents have disbursed the compensation amount to the petitioner. Section 16 of the Telegraph Act reads as follows:

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.-(1)

If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(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.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it. (5) Every determination of a dispute by a District Judge under subsection (3) or sub-section (4) shall be final: Provided that



nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same."

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5.As seen from Section 16(3) of the Indian Telegraph Act, 1885, if any dispute arises with regard to the adequacy of the compensation, the aggrieved person will have to approach the District Judge, within whose jurisdiction the property is situated for determination of compensation. Instead of adopting the said procedure, the petitioner has filed this writ petition. Hence, this Court is of the considered view that this writ petition is not maintainable as there is adequate alternative remedy available to the petitioner as seen from Section 16 of the Indian Telegraph Act, 1885.

6.For the foregoing reasons, there is no merit in this writ petition.

7.Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Tahsildar, Virudhunagar.

+1 CC to M/s.POLAX LEGAL SOLUTION, Advocate (SR-21187[F] dated 04/11/2020)

+1 CC to M/s.GP (SR-21456[F] dated 06/11/2020)

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AP(20/11/2020) 3P 4C

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