



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.21952 and 22455 of 2019

and

W.M.P.(MD)Nos.18715 and 19234 of 2019

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K.Gurusamy ... Petitioner in W.P.(MD)No.21952 of 2019

Meenakshiammal ... Petitioner in W.P.(MD)No.22455 of 2019

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,
Tamil Nadu Generation and
Distribution Corporation Limited,
10th Floor, NPKRR Maligai,
No.144, Anna Salai,
Chennai-2.

4.The Tahsildar, Punjai Pugalur Taluk,
Karur District.

5.Spring Renewable Energy Pvt. Ltd.,
001 Level G.Pentagon P.S.
Magarpatta City,
Hadapsar, Pune-411013,
Rep. by its Managing Director.

6.M/s.KS Wind & Renewables India Private Ltd.,
Rep. by its Operation Head Mr.P.Kumar
Having its Corporate Office at
D.No.40, Visalakshi Street,
Aiswarya Garden, Goparasanallur,
Poonamallee,
Chennai-600056.



7.Nordex India Private Limited,
(formerly known as Acciona Windpower
India Private Limited)
(CIN:U29253A2015PTC081236)

Having its registered office at
No.201, 2nd Floor, Prestige Emerald,
Municipal No.2 Old No.4, Madras Bank Road,
Corporation Division-61,
Bangalore-560 001, Karnataka
Rep. by its authorized signatories
Prashanth Vittal and Naqqash Grover.
(R7 impleaded vide court dated 05.08.2020
in WMP(MD).4534 of 2020)

... Respondents in both W.Ps.

Prayer in W.P.(MD)No.21952 of 2019: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from erecting High Tension Electric Tower in S.Nos.104/2 and 102/B1, to an extent of 7.82 and 2.20 acres respectively, situated at Nedungur Village, Pugalur Taluk, Karur District, without getting prior permission from the first respondent based upon the representation of the petitioner dated 10.10.2019.

Prayer in W.P.(MD)No.22455 of 2019: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 5 and 6 from erecting High Tension Electric Tower in S.No.84B1, to an extent of 2 acre 47 cents, situated at Nedungur Village, Pugalur Taluk, Karur District, without getting prior permission from the first respondent based upon the representation of the petitioner dated 05.10.2019.

For Petitioners (in both W.Ps.)	: Mr.S.Gokul Raj
For R1 to R4	: Ms.M.Rajeswari for Mr.S.M.S.Johny Basha
For R5	: Mr.Raguvaran Gopalan
For R6	: Mr.V.Subramanian for Ms.Kanimozhimathi
(in both W.Ps.)	

**COMMON ORDER**

Heard the learned counsel on either side.

2.The petitioners are the owners of the petition mentioned lands. The private respondents herein R5 and R6 are attempting to install high tension towers thereon and draw overhead lines across. The petitioners have offered their obstruction and resistance. They have represented through the various Authorities. They have filed these writ petitions.

3.The contentions urged by the petitioner's counsel is that when the petitioners have offered their obstruction and resistance, it is not open to the private respondents herein to go ahead without getting permission from the District Magistrate. The official respondents herein have clarified that the project in question is a private project. Be that as it may, a mere look at Section 10 and Section 16 of the Indian Telegraph Act, 1885, would indicate that where there is obstruction and resistance, it is the District Magistrate who has to give go ahead to the project proponent. In this case, the respondents 5 and 6 have not obtained any such clearance.

4.It appears that when the respondents 5 and 6 moved the District Collector, the same was negatived and the rejection order has been independently challenged. I make it clear that the order of rejection passed by the District Collector will be independently tested by this Court.

5.The contentions of the respondents 5 and 6 are left open in that regard. I only clarify that without an express permission in terms of Section 16 of the Indian Telegraph Act, 1885, the project proponent cannot enter the lands of the petitioners. In as much as, the clearance under Section 16 of the Indian Telegraph Act, 1885, is not there, respectfully following the order dated 03.03.2020 made in W.P.(MD)No.287 of 2020, the Writ Petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

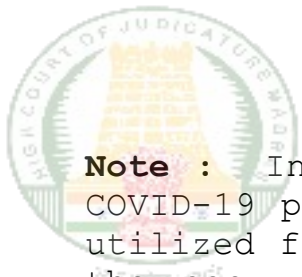
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Sub Assistant Registrar(CS)

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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:

- 1.The District Collector,
Karur District,
Karur.
- 2.The Chief Manager,
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No.144, Anna Salai, Chennai-2.
- 4.The Tahsildar,
Punjai Pugalur Taluk,
Karur District.

+1 CC to M/s.S. GOKULRAJ, Advocate (SR-13708[F] dated
06/08/2020)

W.P. (MD) Nos.21952 and 22455 of 2019
and
W.M.P. (MD) Nos.18715 and 19234 of 2019
05.08.2020

AL(CO)
TR(19.08.2020) 4P 6C