



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) Nos.24350 & 24351 of 2019

and

W.M.P. (MD) Nos.20974, 20977, 20975 & 20979 of 2019

WEB COPY

V.Kalaivani ... Petitioner in W.P.(MD)No.24350 of 2019

Mary Thomas ... Petitioner in W.P.(MD)No.24351 of 2019

Vs

1.The District Collector,
Trichy District.

2.The Superintendent of Engineer,
Tamil Nadu Electricity Board,
Mannarpuram Salai,
Trichy, Trichy District.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Mannarpuram Salai,
Trichy, Trichy District.

... Respondents in both WPS

PRAYER in W.P. (MD)No.24350 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to abandon the proceedings of erecting the "High Tension Tower" in the petitioner's property situated at Navalpattu Village comprised in Survey No.310/Part, Annanagar, Trichy Tamil Nadu Housing Board, Phase-II, Plot Nos. HIG 98 and HIG 99 an extent of 6630 square feet.

PRAYER in W.P. (MD)No.24351 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to abandon the proceedings of erecting the "High Tension Tower" in the petitioner's property situated at Navalpattu Village comprised in Survey No.310/Part, Annanagar, Trichy Tamil Nadu Housing Board, Phase-II, Plot No. HIG 80 an extent of 3314 square feet.

For Petitioner : Mr.D.Vijayakarathikeyan
(In both WPs)

For R1 : Ms.S.Srimathy
Special Government Pleader
(In both WPs)



For R2 & R3 : Ms.M.Rajeswari for
Mr.S.M.S.Jonny Basha
(In both Wps)

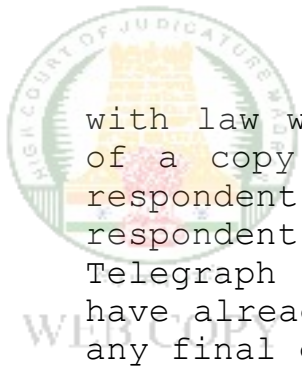
COMMON ORDER

Heard the learned counsel on either side.

2. The petitioners allege that the respondents are attempting to erect "High Tension Towers" in their residential lands. The respondents took the stand that they are only using an existing electric pathway and that nothing new is being done. The learned Standing counsel would claim that they are converting the existing line to new line. Since the stand of the respondent is questioned by the petitioners, this Court had appointed an Advocate Commissioner. The Advocate Commissioner conducted inspection and filed a report before this Court. Paragraph 4 of the said report reads as under:-

'4.It is submitted before the Hon'ble Court that, on my inspection it is seen and found that there is no existing pole at the petitioners land. The pole which is in existence is away from the petitioner's property. There is no other pole in existence in the petitioner's property and abutting the petitioner's property. All the old poles/existing poles are found to be remain standing at the entire stretch in the layout, none is replaced. The proposed pole is a new pole and it is proposed to be erected at the petitioners land for the first time. The authorities also proposed pole which is to be erected is a new pole and it is proposed to be erected at the petitioners land for the first time. Four huge pit were dug for erection of HT tower in which two pits are dug at the public road, two at the petitioners property in plot Nos.98 and 99 in which two leg/pillar entirely is proposed to be erected at the petitioners land'.

3. I am satisfied that the stand taken by the petitioners is substantiated. It is of course true that the respondents are carrying out public project. They can not proceed in the manner therein, without getting consent from the land owner concerned. If the land owners resist or obstruct, it is the District Collector, who can order that the respondents can proceed for execution of the project. In this case, the petitioners have clearly offered their resistance and obstructions. Therefore, the respondents 2 and 3 have to necessarily move the first respondent with a proper application. On such application being filed, the first respondent will decide the same on merits and in accordance



with law within a period of eight weeks from the date of receipt of a copy of this order. Before passing final order, the first respondent will hear the petitioners herein. Till the first respondent passes final order under Section 16 (1) of the Indian Telegraph Act, 1885, the impugned works shall be put on hold. I have already made it clear that the first respondent will not pass any final order without hearing the writ petitioners herein.

4. These Writ Petitions are disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss/ ias

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,
Trichy District.

2.The Superintendent of Engineer,
Tamil Nadu Electricity Board,
Mannarpuram Salai, Trichy, Trichy District.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
Mannarpuram Salai, Trichy, Trichy District.

+2 CC to Mr.M. KARTHIK, Advocate (SR-13601[F] dated 04/08/2020)

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and

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