

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23/2/2021

C O R A M

THE HONOURABLE Mr.JUSTICE B.PUGALENDHI

Writ Petition No.3830 of 2021

P. Mathaiyan

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Petitioner

Vs

- 1.The Principal Secretary to Government
Electricity Department
Secretariat
Chennai 600 009.
- 2.The District Collector
Salem District.
- 3.The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO)
NPKRR Maligai, IV Floor
144 Anna Salai
Chennai 600 002.
- 4.The Superintending Engineer
TANGEDCO
Enforcement Sub Circle
Udayapatti
Salem District 636 140.
- 5.The Executive Engineer
TANGEDCO, Enforcement Sub Circle
Udayapatti
Salem District 636 140.
- 6.The Assistant Executive Engineer
TANGEDCO, Enforcement Sub Circle
Udayapatti
Salem District 636 140.

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Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to consider the claim of the petitioner with regard to payment of due compensation for the loss and damages caused in the erection of high power tower and pass orders

within a limited time frame in the light of his representation dated 7/10/2020.

For petitioner ... Mr.G.Punniakoti

For respondents ... Mr.Annai Ezhil
Government Advocate
for R.R.1 and 2

Mr.Abdul Saleem
Standing Counsel
for R.R.3 to 6.

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O R D E R

This Writ Petition has been filed to direct the respondents to consider the claim of the petitioner with regard to payment of due compensation for the loss and damages caused in the erection of high power tower.

2. The case of the petitioner is that TANGEDCO has put up some HT tower in the petitioner's land and has utilised the land in S.Nos.36/6 and 37/3A. In that land, according to him, there were 30 coconut trees and several other trees and without valuing the trees available in the land, they have calculated the compensation at Rs.48,148/- and the real damage caused for the cultivation is the damages caused for the cultivation, cutting of trees, erection of towers and damages to the electric motor pump set the authorities are liable to pay compensation to the petitioner to the tune of Rs.16,,74,540/- Rs.1,25,000 Rs.15,00,000/- and Rs.3,00,000/- respectively total Rs.36,04,540/- as per norms but only a sum of Rs.48,148/- has been paid as compensation and a sum of Rs.35,56,392/- is still to be paid, without paying the said amount, they have completed the works of creating the high tension towers and drawing electric High Tension wires.

3. Learned counsel for the petitioner made his submissions, by referring to the provisions under Section 10 (d) to Section 19 of the Indian Telegraphic Act and Section 164 of the Indian Electricity Act, 2003 that the compensation ought to have paid as per the prescribed norms, but it has not been followed in this case.

4. Mr.Abdul Saleem, learned Standing Counsel takes notice for the respondents 3 to 6 and submit that already compensation has been calculated, as per the norms and a sum of Rs.48,148/- has been paid to the petitioner in his father's

S.B.A/c.No.6201776130, Indian Bank, Mecheri Branch. He would further submit that if the petitioner is not satisfied with the compensation, he is at liberty to approach the Court concerned, by adducing the evidence before the appropriate Court. He has also relied upon the order of the Hon'ble Supreme Court in POWER GRID CORPORATION OF INDIA LIMITED Vs. CENTURY TEXTILES AND INDUSTRIES LIMITED AND OTHERS (2017) 5 Supreme Court Cases - 143, wherein it has been held as follows:-

"27. At this stage, we deal with the direction of the Division Bench regarding compensation payable to the writ petitioner or for that matter to the State Government. In the first instance, no such claim was laid by the writ petitioner in the writ petition or by the State Government before the High Court. Furthermore, the High Court could not have given this task to the District Collector, which is contrary to the provisions of Section 16 (c) of the Telegraph Act, 1885 which are extended to laying down of electricity lines. As per this provision, such an authority vests with the District Judge.

28. These are sufficient reasons to allow Civil Appeal No.10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the District Judge, concerned for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated 15/10/2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines.

5. In view of the above cited judgment of the Hon'ble Supreme Court, this writ petition is disposed of. Liberty is granted to the petitioner to work out his remedy before the appropriate Court. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs.

To

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+1cc to Mr.Abdul Saleem, Advocate SR.11815
+1cc to Mr.G.Punniakotti, Advocate SR.10928
+1cc to the Government Pleader SR.11396

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MG(CO)
CB(19/03/2021)