



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23774 of 2012
and
M.P.Nos.1 & 2 of 2012

K.R.E.Arumugam

...Petitioner

Vs.

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002
2. The Superintending Engineer,
Non-Conventional Energy Sources,
TANGEDCO,
No.15, 15A, Kumaralingam Road,
Udumalpet - 642 154
3. M/s.Jain Mahindra Pukhraj,
41/42, Liberty Cinema Building,
2nd Floor, New Marine Lines,
Mumbai 400 020
4. M/s.Shah Dilipghisalai,
41/42, Liberty Cinema Building,
2nd Floor, New Marine Lines,
Mumbai 400 020
5. M/s.Shri Karpakambal Mills Ltd,
Cholapuram, (South) P.O.
Near Rajapalayam,
Virudhunagar 626 129
6. M/s. Kandhan Knits,
No.1/287-B.
P.N.Road, Pondupalayam P.O.
Peramanallur 641 666
7. M/s. N.S.P.Tex,
No.1/287, A.P.N.Road, Pondupalayam P.O.,
Perumanallur 641 666



8. M/s.Indiana Grating Pvt. Ltd.,
Indiana House P.B., No.7409,
Moral Naka, Andheri East, Mumbai 400 059

9. M/s SNQS Internationals, 19, India Nagar,
2nd street, Murugapalayam South,
Tiruppur 641 603

10. The Protectron Electromech (P) Ltd.,
D-11-14, Brigade MM, 7th BIPCK,
Jeyanagar, K.R.Road,
Bangalore 560 070

... Respondents

*RR 3 to 10 impleaded as per order of this Court dated
05.11.2012 in M.P.No.3 of 2012 in W.P.No.23774 of 2012

PRAYER: Writ Petition filed Under Article 226 of the
Constitution of India, to issue a Writ of CERTIORARI, to call
for the entire records to the impugned order passed by the
second respondent in his Lr.No.1620/SE/NCES/UDT/AEE/SDM/F.Court
Case/12, dated 27.08.2012 and quash the same.

For Petitioner : Mr.C.Prakasam

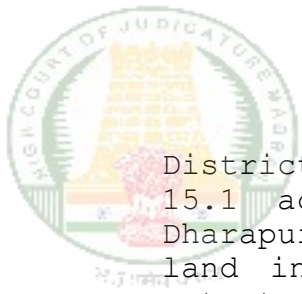
For R-5 : Mr.Thiagarajan

For R-9 : Mr.S.Mahesh

For RR 1 - 4 : No Appearance
6-8 & 10

O R D E R

The order passed by the 2nd respondent dated 27.08.2012
is under challenge in the present Writ Petition. The petitioner
claims that his father owned vast extent of lands situated in
(1) G.S.Nos.(Old S.Nos.16, 30, 173, 535), 677, 678, 680/A,
680/B, 681, 991, 1015 and 1016 (New S.Nos.817/1A2B) to the total
extent of 67.69 acres in Puthur Village, Dharapuram Taluk now
Tiruppur District: (2) in G.S.No.(Old S.Nos.) 17-B, 21-A, 169,
170, 173, 126, 122 and 172-A to the total extent of 57.27 acres
of land situated in Chinnakkampalayam Village, Dharapuram Taluk
now Tiruppur District; (3) in G.S.Nos.(Old S.Nos) 17-C, 107, 108
and 131 to the total extent of 40.57 acres of land situated in
Chinnakkampalayam Village, Dharapuram Taluk now Tiruppur



Districtl (4) in G.S.No.(Old S.No.) 129 to the total extent of 15.1 acres of land situated in Chinnakkamapalayam Village, Dharapuram Taluk now Tiruppur District and (5) another extent of land in G.S.No.(Old S.Nos.) 31, 30, 32 and 34 to the total extent of 21.46 acres situated in Chinnakkampalayam Village, Dharapuram Taluk now Tiruppur District.

2. One P.K.Duraisamy Gounder and his brother P.K.Palanisamy Gounder, P.K.Govindhasamy Gounder and their respective wives, namely Muthammal, Lakshmi Ammal and Swamiyammal and the said P.K.Duraisamy Gounder, P.K.Palanichamy Gounder, P.K.Govindhasamy Gounder 's mother Devammal have claimed over the above said lands and interfered with the lawful possession of the father of the writ petitioner K.R.Eswaramoorthy Gounder. Thus, the father of the writ petitioner filed Civil Suits in O.S.Nos.2 & 3 of 1960 against all the persons.

3. The suits were dismissed by the Sub Court on 07.04.1962 and an Appeal Suit was filed in A.S.No.268 of 1962 and A.S.No.129 of 1964 before the Hon'ble High Court of Madras, challenging the Decree and Judgment passed in the Original Suit.

4. The Hon'ble Division Bench of this Court, on 25.11.1969 set aside both the Decrees and Judgments passed in O.S.Nos.2 & 3 of 1960, and allowed the Appeal Suits filed by the father of the Writ Petitioner. The Special Leave Petition (SLP) filed by the defendants in the suit was dismissed by the Hon'ble Supreme Court of India.

5. Relying on the said Civil Court's Judgments, the learned counsel for the petitioner reiterated that the respondent Superintending Engineer has not considered any of the documents and rejected the claim of the Writ Petitioner by passing an a cryptic order.

6. The learned counsel appearing on behalf of the 5th respondent raised an objection by stating that the petitioner had not participated in the enquiry nor produced any of these documents enabling the Authorities to consider. Thus, now he cannot raise any objection in respect of the order impugned passed by the Superintending Engineer.

7. A perusal of the order impugned dated 27.08.2012 reveals that the petitioner was called for attending the enquiry on 04.07.2012 for producing the latest ownership documents. However, the petitioner had not attended the enquiry. In respect of the other windmill owners, they have produced the ownership documents and those documents were verified by the Authorities. Consequently, the claim of the writ petitioner to cancel the



N.O.C. order and to stop the generation of electricity from erecting WEGs are rejected.

8. This Court is of the considered opinion that the enquiry was conducted on 04.07.2012. Admittedly, the petitioner had not participated in the enquiry. Mere non-appearance of the petitioner would not dis-entitle him from establishing his property rights, which is otherwise confirmed as per the petitioner, based on the Civil Court's Judgments.

9. Thus, this Court is inclined to grant one more opportunity to the writ petitioner to establish its ownership by submitting all the documents before the Superintending Engineer. In this view of the matter, from the impugned order passed by the 2nd respondent in letter no.Lr.No.1620/SE/NCES/UDT/AEE/SDM/F.Court Case/12, dated 27.08.2012 is quashed and the matter is remitted back to the 2nd respondent for fresh consideration. The petitioner is directed to furnish all the documents, representation if any, within a period of four weeks from the date of receipt of a copy of this order. The 2nd respondent shall fix a date and time for enquiry and communicate the same to all the owners, who all are the respondents in the writ petition and conduct an enquiry by affording an opportunity to all the parties and thereafter, take a decision and pass fresh order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

10. With these directions, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

sts/shr

To:

1. The Chairman,
Tamil Nadu Electricity Board,
Anna Salai,
Chennai 600 002



2. The Superintending Engineer,
Non-Conventional Energy Sources,
TANGEDCO,
No.15, 15A, Kumaralingam Road,
Udumalpet - 642 154

+1cc to Mr.C.Prakasam, Advocate, S.R.No.67395

+1cc to Mr.V.Vijay Shankar, Advocate, S.R.No.67275

Order made in
W.P.No.23774 of 2012

SSD(CO)
SU(06/01/2022)