

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.10795 of 2018
& W.M.P.No. 12736 & 12737 of 2018

Amutha

.... Petitioners

-Vs-

1. The Chairman,
Tamil Nadu Generation & Distribution Corporation Ltd.
Anna Salai, Chennai -600002.

2. The Superintending Engineer,
Operations & Maintenance,
Tamil nadu Generation & Distribution Corporation Ltd.
Kallakurichi & Taluk,
Villupuram District -606202

3. The Junior Engineer,
Operations & Maintenance,
Tamil Nadu Generation & Distribution Corporation Ltd.
Kachirayapalayam,
Chinnasalem Taluk,
Villupuram District - 606207.

4. The Executive Officer,
Town Panchayat Officer,

Town Panchayat Office,
Vadakkanandal,
Chinnasalem Taluk,
Villupuram District - 606207

.... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned order dated 30.11.2017 in Ref. No. Ka. No.A1/ 327/ 2015 passed by the 4th respondent and quash the same.

For Petitioner : M/S. V.R.Kamalanathan
For Respondents : Mr. L.Jaivenkatesh
Standing Counsel for R1 to R3
Mr. A.Selvendran
Government Advocate for R4

ORDER

This writ petition has been filed challenging the proceedings of 4th respondent dated 30.11.2017, wherein steps were taken to remove the Lamp Post that was erected in the cement road in order to provide street lamp to the residents of the concerned locality.

2. The case of the petitioner is that the petitioner and other residents made a representation for providing street light. Accordingly the 4th respondent took steps to lay a cement road and after the

completion of the work, the place where the street light is going to be provided was also chosen. Thereafter, the 4th respondent prepared the estimate for the erection of Lamp Post and in the year 2014, the Lamp Post was erected in front of the house of the petitioner on 04.01.2016. The further case of the petitioner is that it was also energized and the street lamp was working which proved to be very useful for the residents in the locality.

3. The grievance of the petitioner is that all of a sudden, steps were taken to remove Lamp Post based on the instructions issued by the 4th respondent. Impugned proceedings dated 30.11.2017 was communicated to the 3rd respondent wherein 3rd respondent was directed to remove the Lamp Post. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The respondents 1, 2 & 3 have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

2. I state that 28 Nos. of application for erecting 52 Nos. Street Lamps in Vadakkanandal Town Panchayat was received from the 4th respondent on 28.05.2015. Based on the applications estimate was prepared and got sanctioned. The estimate amount of Rs. 6,23,860/- was paid by the 4th respondent. Then 52 Nos. of Street Lamps were erected at various locations of Vadakkanandal Town. Out of which, 1 No. Street lamp was erected in front of the petitioner's house by erecting a new pole with one span of L.T.Line.

3. At the outset I submit that the above writ petition is bad for non-joinder of Mrs.Uma Maheswari who sought for removing the lamp post through the 4th respondent the Executive Officer. Further the lamp post was erected only at the instance of the 4th respondent at the present location i.e. In front of the petitioner's house. But now the 4th respondent is being pressurized by the said Mrs.Uma Maheswari to remove the lamppost. Therefore being a neutral authority we will obey the order of this Hon'ble Court.

4. I submit that the location of the pole to be erected by initially

identified by the representative of the 4th respondent. I submit that one Tmt.Uma Maheswari wife of Periyasamy, residing at North Street, Vadakkanandal has represented to the 4th respondent to remove the street lamp erected in front of the petitioner's house stating that the pole and lamp were erected in the patta land of the petitioner instead of street. In response to the petitioner, the 4th respondent sent an application to the 3rd respondent requesting to remove the pole and street lamp erected in front of the petitioner's house. Based on the application dated 30.11.2017, estimate was prepared and got sanctioned. An amount of Rs.310/- was paid by the respondent on 29.01.2018. Before taking up the work the petitioner has approached this Hon'ble Court to stay the proposed removal of the street lamp erected in front of the petitioner's house.

4. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

5. It is clear from the counter affidavit filed by the Electricity

Board that the work itself was undertaken by the Board only based on the instructions given by the 4th respondent. It is also seen that the 4th respondent has paid the estimate amount of Rs.6,23,860/- and 52 numbers of street lamps were erected at various locations. One such street lamp was erected in front of the house of the petitioner.

6. There is absolutely no reason as to why this street lamp must be removed just because some third party is making an objection before the 4th respondent and is pressuring for removing the lamp post. The money has been spent and the lamp post has been erected and the street lamp has been provided and there is absolutely no reason why it should be removed just because some third party raises an objection. Therefore, in considered view of this Court, the 4th respondent should not have issued directions to the 3rd respondent based on some objections given by one Uma Maheswari. The street lamps were erected for the benefit of the people in the locality and some private dispute should not make the respondents take a hasty decision to remove the street lamp erected in front of the house of the petitioner.

7. In view of the above, this Court has no hesitation to interfere in the impugned proceedings of the 4th respondent dated 30.11.2017 and the same is hereby quashed. There shall be a direction to the 3rd respondent to restore the street light in front of the house of the petitioner. This process shall be completed by the 3rd respondent within a period of 4 weeks from the date of receipt of the copy of this order.

8. This writ petition is allowed with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

21.09.2021

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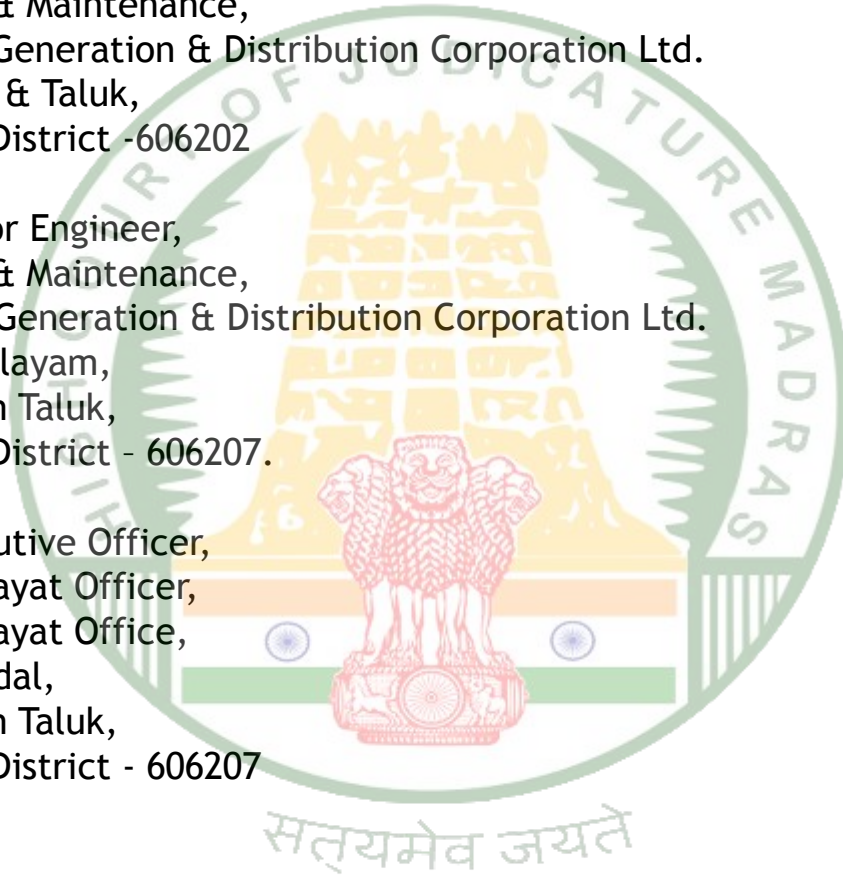
To

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