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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.3641 of 2016

S.Geetha

... Petitioners

Vs.

1.The District Collector,
Dharmapuri District.

2.The Superintending Engineer,
TANGEDCO,
Dharmapuri Electricity Circle,
Dharmapuri.

3.The Assistant Executive Engineer
TANGEDCO,
Kurinchi Nagar,
Near Government Hospital,
Morappur,
Dharmapuri District.

4.Saravanan

5.Ramesh

6.Manokar

7.Gandhi @ Ramakrishnan

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents 2 to 3 to pay a sum of Rs.15,00,000/- as a compensation for the death of the petitioner's husband on 21.06.2015 due to electrocution which occurred to the carelessness and poor maintenance of the electric lines.



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For Petitioner : Mr.J.Pradeep
For Respondent 1 : Mr.M.Rajendiran
Additional Government Pleader
For Respondent : Mr.L.Jai Venkatesh
2 & 3 TANGEDCO
For Respondent 7 : Mr.V.R.Anna Gandhi
For Respondent : No Appearance
4 to 6

O R D E R

The relief sought for in the present Writ Petition is to direct the respondents 2 to 3 to pay Rs.15,00,000/- as a compensation for the death of the petitioner's husband on 21.06.2015.

2. The petitioner states that her husband was missing from 20.06.2015. The petitioner came to understand that her husband died on 21.06.2015, at the place near Ponnagoundampatty Village, Dharmapuri District. A criminal case was registered in Crime No.257/15 under Section 302 IPC. The scene of occurrence was found to be that the petitioner's husband was found death in dry land belongs to one Selvaraj. The husband of the petitioner sustained cut injuries in legs and wounds on lower part of legs. The death was found as an unnatural and investigations were conducted.

3. The petitioner states that her husband died due to electrocution and the electrocution was due to improper maintenance of line wires by the Electricity Board. Thus, the petitioner is constrained to move the present Writ Petition.

4. The counter affidavit filed by the respondents / TANGEDCO states that FIR was filed under Section 302 of IPC for the murder of the deceased husband of the petitioner. It was altered under Section 304, 201 of IPC r/w Section 135 (1A) of the Electricity Act, 2003. In the FIR itself it has been clearly stated that the deceased sustained cut injuries in both his legs and grievously hurt before death and he was murdered due to previous enmity.

5. Paragraph Nos.9 and 10 of the said counter affidavit reads as follows:



"9. Further there was no tripping in the HT Line it was also not the case of the petitioner that the line was indangerous condition/ position. Even the postmortem report would disclose that the deceased would appeared to have died of shock and haemorrhage due to cut injuries. While so the averment that the petitioner's husband died of electricution itself is a false one, Perhaps made for the purpose of claiming compensation from TANGEDCO instead of from the culprits, namely, the fourth to seventh respondents herein. Therefore, the question of doctrine of 'resipsa loquitor' will not apply in this case. Hence these is no merit in the above writ petition.

10. I submit that even assuming without admitting for a movement that the accident occurred due to electrocution, even then the TANGEDCO is not responsible for the accident, since the police have charge sheeted against the respondent 4 to 7 who had illegally and unauthorizedly installed a wire so as to kill wild animals. Therefore, in any event, the TANGEDCO is no way connected with the accident and hence they cannot be held responsible".

6. In view of the fact that the death of the petitioner's husband was due to electrocution is neither established before this Court nor admitted by the Electricity Board, the relief as it sought for in the present Writ Petition cannot be granted. However, it is left open to the petitioner to approach the competent Court of law, if she possess any evidence to establish that the death of her husband is due to electrocution.

7. However, such a trial cannot be conducted in the Writ Proceedings under Article 226 of the Constitution of India. Thus, the petitioner is at liberty to approach the competent Court of law or forum concerned for adjudication of the disputed facts.

8. With this liberty, the Writ Petition stands disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



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To

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TANGEDCO,
Kurinchi Nagar,
Near Government Hospital,
Morappur,
Dharmapuri District.

+1cc to M/s.J.Pradeep, Advocate Sr.69926
+1cc to M/s.L.Jai Venkatesh, Advocate Sr.117
+1cc to the Government pleader Sr.69853

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bp[co]
srg 25/03/2022