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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

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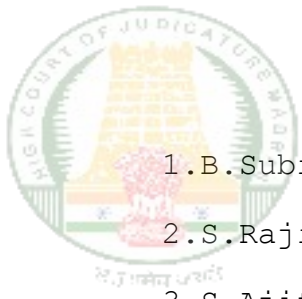
THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.827 of 2017
and
C.M.P.No.11538 of 2017

- 1.The Chairman,
Tamil Nadu Electricity Generation,
& Distribution Corporation,
Anna Salai, NPKRR Maaligai,
Chennai-600002
- 2.The Superintending Engineer,
Transmission Line Construction,
Tamil Nadu Electricity Generation,
& Distribution Corporation,
Post Box No.820, Mannarpuram,
Trichy
- 3.The Executive Engineer,
Transmission Line Construction,
& Distribution Corporation,
Deepan Nagar,
Cuddalore, Cuddalore Taluk,
Cuddalore District.
- 4.The Superintending Engineer,
Transmission Line Construction,
Tamil Nadu Electricity Generation,
& Distribution Corporation,
Villupuram, Villupuram Taluk,
Villupuram District.
5. The Junior Engineer,
Transmission Line Construction,
Tamil Nadu Electricity Generation,
& Distribution Corporation,
Villupuram, Villupuram Taluk,
Villupuram District

.. Appellants.

-vs-



1.B.Subramanian

2.S.Raji

3.S.Ajithkumar

4.B.Devaki

5.The District Collector cum-District Magistrate,
Villupuram, Villupuram District,
(R5 sum-moto impleaded as per
order dated 03.08.2016)

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03.08.2016 made in W.P.No.27081 of 2016 by a learned Single Judge of this Court.

PRAYER IN WP.NO. 27081 OF 2016: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus forbearing the respondents from taking overhead electricity lines across or from laying electricity towers in the properties bearing Sl. No New S.No Extent Hec. Ares 1) 29/1 0.32.50 2) 30/2 0.41.50 3) 32/2 0.35.00 4) 37/- 0.98.50 1st Petitioner 5) 194/4 0.19.00 6) 195/- 0.58.50 7) 252/- 0.46.00 8) 60/2 0.36.50 9) 61/1 0.42.00 10) 61/2 0.79.50 11) 66/6 0.02.00 12) 66/8 0.02.00 2nd petitioner 13) 13/5 0.06.50 14) 21/1 0.36.50 15) 22/3 0.37.00 16) 24/1 0.47.50 17) 24/4 0.30.50 18) 66/7 0.06.50 19) 23/2 0.11.50 3rd petitioner 20) 27/1 0.15.50 21) 24/2 0.28.50 4th petitioner in Siruvanthadu Village Villupuram District except of law.

For Appellants : Mr.M.Vijayamehanath
(TNEB)

For R1 to R4 : Mr.D.Baskar

For R5 : Mr.T.Arunkumar
Government Advocate

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA, J.)

This Writ Appeal has been directed against the order dated 03.08.2016 made in W.P.No.27081 of 2016 by a learned Single Judge of this Court.

2. So far as this Writ Appeal is concerned, it is stated that Mr.Subramanian, 1st respondent herein has refused to receive the compensation determined and paid by the appellants therein on the ground that the compensation determined was insufficient.

3. At this stage, learned counsel appearing for the



appellants in drawing our notice to Section 16(4) of the Indian Telegraphic Act stated that since the erection of transmission tower point has already been over, if the said Subramanian/1st respondent herein expects more compensation, he has to approach the learned District Court under Section 16(4) of the Indian Telegraphic Act which reads as follows:

'16.Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority--

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause(d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section(1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for the purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a



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District Judge under sub-section (3), or sub-section(4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.''

4. Recording the said submissions made by the learned counsel for the appellants and learned counsel for the respondents that the erection of transmission tower and the power line have already been over, the question of determination of the compensation on the land or above the land are to be decided only by the learned District Court. Hence, nothing survives in this writ appeal for further adjudication.

4. Accordingly, this Writ Appeal stands dismissed as infructuous with liberty to the 1st respondent to approach the concerned District Court within 60 days from the date of receipt of a copy of this Order in view of the Covid-19 pandemic situation. No costs. consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

+1cc to Mr. Advocate, S.R.No.
+1cc to Mr. Advocate, S.R.No.
+1cc to the Government Pleader, S.R.No.

(CO)
GN(13/08/2021)
vsn

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5. The Junior Engineer,
Transmission Line Construction,
Tamil Nadu Electricity Generation,
& Distribution Corporation,
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Villupuram District

6.The District Collector cum-District Magistrate,
Villupuram, Villupuram District,

+lcc to Mr.Vijayamehanath, Advocate, S.R.No. 31839

+lcc to the Government Pleader, S.R.No. 31694

W.A.No.827 of 2017
and C.M.P.No.11538 of 2017

RLD(CO)
GN(13/08/2021)