



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2021

CORAM

THE HON'BLE MR.JUSTICE T. S. SIVAGNANAM
and
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.5058 of 2021

R.Ulaganathan

...Petitioner

-Vs-

1.The Commissioner,
Thanjavur Corporation,
Thanjavur District.

2.The Chief Executive Engineer,
Tamil Nadu Electricity Board,
Thanjavur District.

3.Balakrishnan

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to remove the encroachment made by the 3rd respondent by considering the petitioner's representation dated 18.09.2020.

For Petitioner : Mr.A.Arun Prasad
For Respondents : Mr.N.Dilip Kumar for R1,
Mrs.S.Srimathy,
Spl. Govt. Pleader for R2
Mr.T.A.Ebenazer for R3

ORDER

[Order of the Court was made by **T. S. SIVAGNANAM, J.,**]

The petitioner by way of this Writ Petition, seeks for the issuance of a Writ of Mandamus, directing the first respondent to remove the encroachment made by the third respondent, by considering the petitioner's representation dated 18.09.2020.

2. Heard Mr.A.Arun Prasad, learned counsel appearing for the petitioner, Mr.N.Dilip Kumar, learned counsel appearing for the first respondent, Mrs.S.Srimathy, learned Special Government Pleader, appearing for the second respondent and Mr.T.A.Ebanazar, learned counsel appearing for the third respondent.



3. The petitioner and the respondents are neighbours. The land in between their plots, whereby residing are to be left free to sky as a high tension power line is crossing across the pathway. It is clear from the rough sketch filed by the petitioner. Admittedly, the construction which has been put up by the third respondent has been in existence for over 20 years. It appears that there is some difference of opinion between the petitioner and the third respondent, which has led to the filing of this Writ Petition.

4. The learned counsel appearing for the petitioner submitted that as early as in 2010 he has given a representation that the offending structure should be removed, as no construction can be put up below the high tension line. Presently, he would add another allegation that the construction is for toilet facility and waste water flows into the street.

5. Considering the peculiar facts and circumstances of the case and that the construction has been in existence for over 25 years and this *prima facie* appears to be a dispute between the neighbours, we direct the officials of the Corporation as well as the Electricity Board to conduct a joint inspection, after notice to the Writ Petitioner and the third respondent and bring out a workable solution, safeguarding the interest of the third respondent and others from any electrocution or other untoward incidents and also ensuring that no waste water flows out of the toilet constructed in the said land. This exercise shall be carried out within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Commissioner,
Thanjavur Corporation,
Thanjavur District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Chief Executive Engineer,
Tamil Nadu Electricity Board,
Thanjavur District.

+1 CC to M/s.T.A.EBENEZER, Advocate (SR-17619[F] dated 27/04/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-17693[F] dated 27/04/2021)

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AS (09.06.2021) 3P 5C