



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.04.2021**

CORAM

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD)No.5399 of 2021

and W.M.P. (MD)No.4312 of 2021

WEB COPY

R.Marimuthu

.. Petitioner

Vs.

1.The District Collector,
Virudhunagar,
Virudhunagar District.

2.The Chief Engineer,
O/o. Chief Engineer,
Virudhunagar Electricity Distribution Circle,
No.1/165, Ramamoorthy Road,
Arupukottai Taluk,
Virudhunagar District.

3.The Superintending Engineer,
O/o. The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
No.1/165, Ramamoorthy Road,
Arupukottai Taluk,
Virudhunagar District.

4.The Executive Engineer,
O/o. Executive Engineer,
Distribution Aruppukottai,
Aruppukkottai SS Campus,
Virudhunagar District.

5.The Assistant Executive Engineer,
O/o. the Assistant Executive Engineer,
Arupukottai Town,
Arupukottai SS Campus,
Virudhunagar District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbear respondent No.5 from steps to erecting the electricity tower in the petitioner's patta land in Survey No.303/2A, Keelkudi, Arupukottai Taluk, Virudhunagar in an extent of 5 acres without complying the procedure established under Section 68(1) of the Indian Electricity Act, 2003 and the Works of Licensees Rules, 2006.



For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.P.Mahendran,
Addl. Govt. Pleader for R1
Ms.M.Rajeswari,
for S.M.S.Johny Basha for R2 to R5

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ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, forbearing the fifth respondent from erecting any electricity tower in the patta land belonging to the petitioner, without complying with the procedure contemplated under the relevant Act and the Rules.

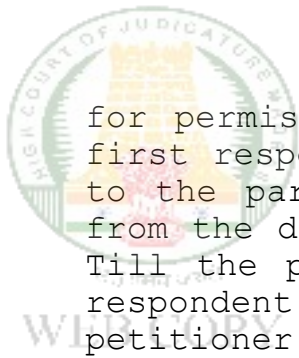
2. The case of the petitioner is that he is the owner of the subject property and the fifth respondent proceeded to take steps to erect the electricity tower inside the property of the petitioner. According to the petitioner, he has objected to the same and in spite of it, the fifth respondent without getting necessary permission of the first respondent, is proceeding to continue with the work. Left with no other option, the present Writ Petition has been filed before this Court.

3. The learned counsel appearing on behalf of the respondents 2 to 5 submitted that the petitioner had initially given concurrence to lay the tower in his property and was asking for payment of compensation. It was only based on the concurrence given by the petitioner, the fifth respondent was carrying on with the work. Subsequently, the petitioner has chosen to approach this Court and filed the present Writ Petition.

4. Heard Mr.T.Lajapathi Roy, learned counsel appearing on behalf of the petitioner, Mr.P.Mahendran, learned Additional Government Pleader appearing on behalf of the first respondent and Ms.M.Rajeswari, learned counsel for Mr.S.M.S.Johny Basha, learned counsel for respondents 2 to 5.

5. It is clear from the submissions made on either side that the petitioner is objecting to the fifth respondent entering into the property for the purpose of erecting the tower. Once such an objection is made, the fifth respondent will have to necessarily file an appropriate application before the first respondent and get permission for entering upon the property and only thereafter, the work can be proceeded. The law on the issue is well settled and the same is reiterated in the present case also.

6. In view of the above, the fifth respondent is directed to file an appropriate petition before the first respondent and seek



for permission to enter upon the property of the petitioner. The first respondent shall deal with the same, after giving opportunity to the parties and pass orders within a period of four (4) weeks from the date of receipt of the petition from the fifth respondent. Till the permission is granted by the first respondent, the fifth respondent is restrained from entering upon the property of the petitioner to carry on with any work.

7. This Writ Petition is accordingly allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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 District Collector,
Virudhunagar,
Virudhunagar District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-16840[F] dated 21/04/2021)

+1 CC to M/s.SPL GP (SR-16938[F] dated 21/04/2021)

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KE(06.05.2021) 3P 4C