



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 12.07.2021
PRONOUNCED ON : 14.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
W.P(MD)Nos.10506 and 10509 of 2021

and
W.M.P(MD) .Nos.8183, 8920, 8179 and 8924 of 2021

(Through Video Conference)

W.P(MD) .No.10506 of 2021:

E.Easwari

.. Petitioner

Vs.

1.The Chairman,
Tamilnadu Transmission Corporation Ltd.,
(TANTRANSCO),
No.144, Annasalai,
Chennai.

2. The District Collector,
Dindigul,
Dindigul District.

3.The Superintending Engineer,
TANTRANSCO,
General Construction Circle,
K.Pudur,
Madurai-625 007.

4.The Executive Engineer,
TANTRANSCO,
(765 KV Double Circuit
Virudhunagar-Coimbatore
Transmission Line),
No.22/61, Ramamoorthi Road,
Sivakamipuram,
Virudhunagar.



5.The Assistant Executive Engineer,
Transmission Line Construction,
TANTRANSCO,
Angu Nagar,
Meenakshinayakkan Patti,
Dindigul-624 004.

6.The Revenue Divisional Officer,
Dindigul,
Dindigul District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents 3 to 5 from entering into the landed property of the petitioner situated at SF.No.654/2 and 700/2, Silvarpatty Revenue Village, Kathirayankulam, Dindigul West Taluk, Dindigul District for erection of High Tension Transmission Tower and drawing of Transmission line under 765 KV Double Circuit line Virudhunagar-Coimbatore transmission line project without the consent of the petitioner and in deviation of resettlement plan (May-2019) for project No.51308-001 prepared by the TANTRANSCO for the project No.51308-001 on the basis of the representation of the petitioner dated 12.06.2021 to the respondents.

W.P(MD) .No.10509 of 2021:

B.Rajkumar

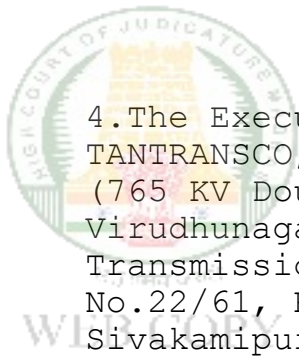
.. Petitioner

Vs.

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.. Respondents

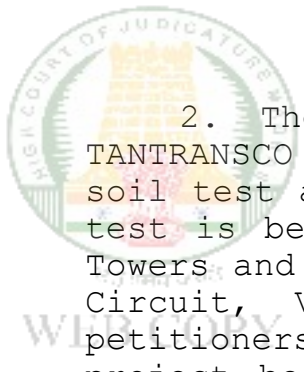
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents 3 to 5 from entering into the landed property of the petitioner situated at SF.No.700/1, admeasuring 4.81 Acres, Silvarpatty Revenue Village, Kathirayan Kulam, Dindigul West Taluk, Dindigul District for erection of High Tension Transmission Tower and drawing of Transmission line under 765 KV Double Circuit line Virudhunagar-Coimbatore transmission line project without the consent of the petitioner and in deviation of resettlement plan (May-2019) for project No.51308-001 prepared by the TANTRANSCO for the project No.51308-001 on the basis of the representation of the petitioner dated 12.06.2021 to the respondents.

In both cases:

For Petitioners	: Mr.B.Saravanan
For Respondents 1, 3 to 5	: Mrs.S.Srimathy for Mr.S.M.S.Jhony Basha Standing Counsel
For Respondent No.2	: Mr.M.Lingadurai Government Advocate

COMMON ORDER

These writ petitions have been filed for the issue of writ of mandamus forbearing the respondents from entering into the property belonging to the petitioners for erection of High Tension Transmission Towers and drawing of Transmission line.

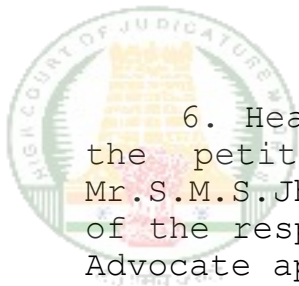


2. The case of the petitioners is that the officials of TANTRANSCO entered into the property of the petitioners to conduct a soil test and when enquired, they informed the petitioners that the test is being done to identify the location to erect High Tension Towers and to draw the transmission lines as part of 765 KV Double Circuit, Virudhunagar-Coimbatore Transmission Line Project. The petitioners made representations to the respondents and opposed the project being taken through their properties mainly on the ground that there is a deviation from the resettlement plan to favour someone and thereby the petitioners will be losing their valuable property. It is the further case of the petitioners that if the Transmission Line is drawn as per the original resettlement plan, their lands will be spared. Since the representations were not considered, the present writ petitions have been filed before this Court.

3. The respondents have filed a counter affidavit. They have taken a stand that an approval has been granted in terms of Section 164 of the Electricity Act, 2003 and therefore, no notice or consent of the petitioners is required for erection of Tower and laying Transmission Lines. It is further stated that the proposed project will improve the operational efficiency, quality of power, reliability of the system and reduced losses leading to better voltage profile in Tamilnadu. It is stated that the project associated with 765 KV Line is passing through four districts in Tamilnadu, namely, Virudhunagar, Madurai, Dindigul and Tiruppur.

4. The further stand has been taken in the counter is that the proposed line route was decided after preliminary survey conducted by the Anna University, Chennai on remote sensing and GIS Technology method. That was the basis of which the resettlement plan was made ready. Thereafter, the physical survey was conducted by TANTRANSCO and it was found that the route alignment made ready by the Anna University is passing through Thovar Reserve Forest area in Dindigul Taluk and very near to the proposed Line route, there is already an existing 765 KV and 400 KV EHT Lines without maintaining horizontal clearances. In order to avoid these constraints, a deviation was made as suggested by TANTRANSCO and it was reviewed and accepted by Anna University. The reasons for such acceptance by the University is also explained at paragraph No.8 of the counter affidavit.

5. It has been further stated that nearly 50% of the work has been completed and it is proposed to lay four legs of Towers in the property belonging to the petitioner in W.P.(MD).No.10506 of 2021 and two legs of Towers in the property belonging to the petitioner in W.P.(MD).No.10509 of 2021. If in case any objections are made by the petitioners, the respondents will also take steps to obtain necessary orders from the District Collector to enter upon the property of the petitioners. It is further stated that whatever loss is incurred by the petitioners will be compensated as per law.



6. Heard Mr.B.Saravanan, learned counsel appearing on behalf of the petitioners, Ms.S.Srimathy, learned counsel appearing for Mr.S.M.S.Jhony Basha, learned Standing Counsel appearing on behalf of the respondents 1, 3 to 5 and Mr.M.Lingadurai, learned Government Advocate appearing on behalf of the second respondent.

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7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. There are two main issues that have been raised for the consideration of this Court:

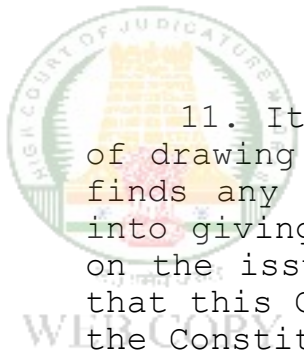
(a) The petitioners will be deprived of their valuable property due to the deviation to the original resettlement plan and such a deviation does not have any basis and it is done for reasons best known to the respondents;

and

(b) once the petitioners have protested for laying the Towers in their property, the respondents cannot carry on with the work unless they get the necessary permission from the District Collector.

9. The learned counsel for the petitioners by drawing the attention of this Court to the resettlement plan submitted that this plan was prepared after the survey was conducted by the Anna University and the full details of the location of the angle point Towers resulting from the Satellite/GIS Surveys undertaken by TANTRANSCO is available in Annexure-1.1. Under this Annexure, the village belonging to the petitioners namely, Silvarpatti is dealt with under Sl.No.48 and it clearly provides the GPS locations of angle points and it has been fixed with longitude and latitude. It was further submitted that the plan took into consideration the impact of the project and accordingly it was ensured that it will have a minimum impact towards temporary damages on crops, trees, structures, etc. By pointing out to the route alignment, it was submitted that the sudden deviation happened only when it came to Silvarpatti Village wherein there is an unnecessary deviation into the properties belonging to the petitioners and the same has been done for extraneous reasons. That apart, a reply affidavit has been filed to the effect that the Thovar Reserve Forest is situated more than 5 kms radius from the property of the petitioners.

10. A careful reading of the counter affidavit filed by the respondents shows that the initial resettlement plan prepared with the assistance of Anna University was based on remote sensing and GIS Technologies. Thereafter on physical survey, it was found that the Route alignment is passing through a Reserved Forest and there were also other constraints as explained at paragraph No.8 of the counter affidavit. Therefore, TANTRANSCO suggested a final route and it is stated that the final suggestion was also reviewed and accepted by the Anna University.



11. It is apparent that specialists are involved in the process of drawing the plan on this important project and unless this Court finds any illegality on the face of it, this Court cannot venture into giving its views on the findings of the expert bodies. The law on the issue is too well settled and it has been consistently held that this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot sit in appeal over the decisions of experts. Useful reference can be made to the judgement of the Hon'ble Supreme Court in **Akil Bharat Goseva Sangh v. State of A.P., and others**, reported in 2006 (4) SCC 162 and **Basavaiah vs. Dr.H.L.Ramesh and others**, reported in 2010 (8) SCC 372. The respondents have sufficiently explained the reasons for the deviation from the original plan given by the Anna University and in matters of this nature, such re-alignment is unavoidable and it is stated that the re-alignment also was reviewed and accepted by the Anna University. Therefore this Court cannot interfere merely on the ground that the respondents have deviated from the original plan since sufficient reasons have been given by the respondents and such a decision has been taken based on the ground realities and opinion given by experts. The first issue is answered accordingly.

12. Insofar as the second issue is concerned, there is no requirement for the respondents to get the consent of the owners of the property or issue notice, before proceeding further with the project. It is seen that the Government has permitted TANTRANSOCO for executing the project under G.O.Ms.No.35 dated 24.05.2019 under Sections 68 and 164 of the Electricity Act, 2003. Therefore under such circumstances, the respondents are entitled to proceed further with the project. However, whenever any objection or protest is made by the land owner, the respondents will have to necessarily approach the District Magistrate under Section 16(1) of the Telegraph Act for an order permitting them to exercise powers under Section 10 of the Telegraph Act. Admittedly, the respondents have not obtained the order to enter upon the properties belonging to the petitioners. This Court in **R.Santhana Raj v. The Chief Engineer**, reported in 2012 (1) CTC 504 has categorically held that wherever there is resistance or obstructions, the respondents ought to approach the District Magistrate namely, the District Collector under Section 16 (1) of the Telegraph Act and seek for an order to enter upon the property. Unless this order is obtained, the respondents cannot enter into the property of the petitioners.

13. In view of the above discussion, the writ petitions stand disposed of with a direction to the respondents to file an appropriate petition before the District Collector under Section 16 (1) of the Telegraph Act and only after obtaining an order, they can enter upon the properties belonging to the petitioners. However, considering the importance of the project, the District Collector is directed to pass final orders in the petition filed by the respondents after affording opportunity to the petitioners and the



respondents, within a period of four (4) weeks from the date of receipt of the petition from the respondents. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

PJL

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.

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+2 CC to M/s.B.SARAVANAN, Advocate (SR-22428,22427[F] dated
14/07/2021)

+1 CC to M/s.SPL GP (SR-22694[F] dated 15/07/2021)

W.P(MD)Nos.10506 and 10509 of 2021
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SSS (CO)

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