



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND**

THE HONOURABLE MRS.JUSTICE S.ANANTHI

**W.A. (MD) Nos.1096 & 1098 of 2020 and 970/2020
and C.M.P. (MD) Nos.5979, 5977, 7484 of 2020, 78 and 79/2021 and 5268
and 7485 of 2020
(Through Video Conferencing)**

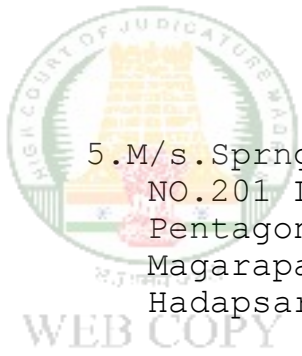
W.A. (MD) Nos.1096 & 1098/2020

D.Balakrishnan :Appellant/3rd Party
in W.A.(MD) No.1096/2020

N.Palanisamy :Appellant/3rd Party
in W.A.(MD) No.1098/2020

Vs.

- 1.K.S.Wind and Renewables India Pvt. Ltd.,
Represented by its Manager Kumar
Visalakshi Street, Aiswarya Garden
Goparasanallur,
Poonamalee, Chennai - 56. ..1st Respondent/Writ Petitioner
- 2.The Collector
The office of the Collectorate
Karur District, Tamil Nadu.
- 3.The Ministry of power,
Rep. by its Secretary
Government of India,
Shram Shakthi Bhavan Rafi Marg,
New Delhi - 1.
- 4.The Chief Manager,
Power Grid Corporation India Limited,
400/230 KV Substation,
K.Paramathi Post
Karur District.



5.M/s.Sprng Energy Private Limited,
NO.201 Level 2
Pentagon P-2
Magarapatta City
Hadapsar, Pune - 411 013.

6.M/s.Sprng Renewable Energy Private limited,
No.210 Level 2
Pentagon P-2
Magarapatta City
Hadapsar, Pune - 411 013

7.M/s.Nordex India Private Limited
Rep. by its Director,
C1-001 Tower C The Milenia' 1 & 2
Murphy Road, Ulsoor
Bangalore - 560 008,
Karnataka, India.

: Respondents 2 to 7/
Respondents 1 to 6
(in both W.As.)

W.A. (MD) No.970/2020

The Collector
The office of the collectorate
Karur District,
Tamil Nadu

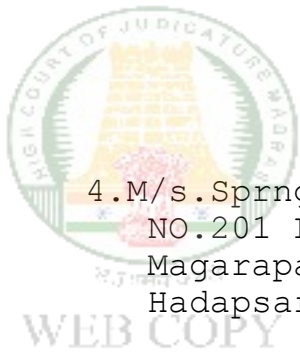
:Appellant in W.A.(MD) No.970/20

Vs.

1.K.S.Wind and Renewables India Pvt. Ltd.,
Represented by its Manager Kumar
Visalakshi Street, Aiswarya Garden
Goparasanallur,
Poonamalee, Chennai-600 056. ..1st Respondent/Writ Petitioner

2.The Ministry of power,
Rep. by its Secretary
Government of India,
Shram Shakthi Bhavan Rafi Marg,
New Delhi-1.

3.The Chief Manager,
Power Grid Corporation India Limited,
400/230 KV Substation,
K.Paramathi Post, Karur District.



4.M/s.Sprng Energy Private Limited,
NO.201 Level 2, Pentagon P-2
Magarapatta City
Hadapsar, Pune-411 013.

5.M/s.Sprng Renewable Energy Private limited,
No.210 Level 2, Pentagon P-2
Magarapatta City
Hadapsar, Pune -411 013.

6.M/s.Nordex India Private Limited
Rep. by its Director,
C1-001 Tower C The Milenia' 1 & 2
Murphy Road, Ulsoor
Bangalore 560 008.
Karnataka, India.

: Respondents 2 to 6/
Respondents 1 to 5

COMMON PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent against the order of this Court made in W.P.(MD) Nos.6319/2020 dated 07.08.2020.

Prayer IN WP(MD)No.6319 OF 2020: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Na.Ka.H3/12327/2019, dated 02.04.2020 and quash the same as illegal, arbitrary and against the provisions of the Electricity Act, 2003 and Works of Licensees Rules, 2006, Telegraph Act, 1885 and grant permission to enter⁷ into the obstructing land owner's land to install the towers and lay the string.

For Appellants in W.A.(MD) Nos.
1096 & 1098/20

: Mr.Isaac Mohanlal
Senior Counsel assisted by
Mr.K.Balasubramani

For Respondents

: Ms.Kanimozhi Mathi for R1
Ms.J.Padmavathi Devi for R2
Special Government Pleader
Mr.Sathish Parasaran
Senior counsel for R5 & R6
assisted by Mr.C.Muthusaravanan
Mr.M.Dinesh for R7
No appearance for R4
Mr.S.Jeyasingh, Senior Panel Counsel
for Central Government for R3



For Appellant in W.A.(MD) No. 970/2020

Ms.J.Padmavathi Devi

Special Government Pleader

For Respondents : Ms.Kanimozhi Mathi, for R1

Mr.Sathish Parasaran

Senior counsel for R4 & R5

assisted by Mr.C.Muthusaravanan

Mr.M.Dinesh for R6

No appearance for R3

Mr.S.Jeyasingh, Senior Panel Counsel

for Central Government for R3

WEB COPY

COMMON ORDER

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

In view of the commonality of the issues involved, these writ appeals have been taken up and disposed of by this common judgment.

2.For the purpose of brevity and convenience, we take the writ appeal filed in W.A.(MD) No.1096/2020 as a lead case and the parties are referred accordingly.

3.M/s.Solar Energy Corporation of India Limited, being a Government of India undertaking, which is engaged in promoting the renewable energy, while envisaging one such power project for the setting up of 300 megawatt wind power, called for biddings.

4.M/s.Spring Renewable Private Limited created a special purpose vehicle, when became a successful bidder in whose favour letter of award has been passed with a condition to complete it within a stipulated time. The said entity entered into a contract with M/s.Nordex India Private Limited. This concern in turn entered into a sub contract with the writ petitioner in W.P.(MD) No.6319 of 2020 by name M/s.K.S.Wind and Renewables India Private Limited.

5. Of the proposed 128 overhead towers, most of them have been completed spanning over different Districts, the District Collector, Tiruppur, invoke Section 10 of the Indian Telegraphic Act (Hereinafter referred to as 'the Act') by passing appropriate orders facilitating the laying of the towers, which come within his territorial jurisdiction. Accordingly, 54 towers were put up. As there was no objection with respect to 71 towers coming within the jurisdiction of one of the appellant, who has incidentally been arrayed as respondent No.1 in W.P.(MD) No.6319/2020, the permission sought for by the petitioner was rejected.

6. The learned single Judge disposed of the writ petition inter alia holding that a joint application can be made along with M/s.Spring Renewable Energy, by taking note of the fact that the



petitioner in W.P.(MD) No.6319 of 2020 is a sub contractor from M/s.Nordex India Private Limited.

7. In the appeal filed by the District Collector, Karur, a plea has been taken that even M/s.Spring Renewable Energy cannot file an application seeking to exercise the power under Section 16 of the Act and therefore, it is not maintainable under Section 10 of the Act.

8. The learned Senior counsels appearing for M/s.Spring Renewable Energy and Nordex India Private Limited, apart from M/s.K.S.Wind and Renewables India Private Limited submitted that the entire approach of the District Collector, Karur and the learned single Judge cannot be sustained in the eye of law, in view of the following judgments:

(i) 2011 SCC Online Mad 127 [C.Ram Prakash and another v. Power Grid Corporation of India Ltd., and another]

(ii) (2017) 5 SCC 143 [Power Grid Corporation of India Limited v. Century Textiles and Industries Limited and others]

(iii) 2019 SCC Online Mad 29327 [R.Raja and others v. District Collector and Others].

Accordingly, it is submitted that the law has been quite settled with respect to the role required to be played by the District Collector, when an application made under Section 10 of the Act seeking to exercise the power under Section 16 of the Act, which is to merely facilitate the work being done. It is further submitted that a permission has infact been obtained in favour of M/s.Spring Energy Private Limited giving authorisation under Section 164 of the Tamilnadu Electricity Act, 2003. Therefore, appropriate orders will have to be issued.

9. The learned Senior Counsel brought to the notice of this Court that except three towers, the entire work has been completed and once the work is completed, the compensation requires to be paid will be made within a further period of two weeks thereafter. Because of the pendency of the present proceedings with interim order, there is a possibility of work not being completed within the dead line given, which might result in financial implications apart from delay in completing the project.

10. Ms.Kanimozhi Mathi, learned Senior counsel appearing for the respondent No.1 submitted that there is no transparency involved. By an arbitrary exercise, the power lines are sought to be taken through the petitioner's land. The guidelines with respect to the compensation as ordered by the Hon'ble Apex Court in **Power Grid Corporation India (2017) 5 SCC 143** will have to be directed to be complied with in letter and spirit. The learned Senior Counsel has



made specific reliance upon Paragraph No.26 of the Hon'ble Apex Court in this regard.

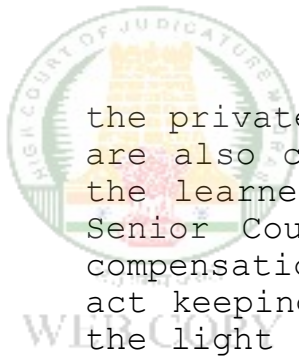
11. The learned Special Government Pleader appearing for the District Collector, Karur submitted that there is no error in the reasoning of the District Collector. Though permission has been obtained by M/s.Spring India Private Limited from the appropriate authority, granting authorisation under Section 164 of the Tamil Nadu Electricity Act, 2003, it being a private entity, the rejection order made cannot be questioned along with the reasons given.

12. We are concern with the larger public interest. Secondly, the law on the subject is quite settled and repeated on number of occasions by this Court. We do not want to reproduce the law laid down once again. The role of the District Collector, while exercising the power under Section 16 of the Act in an application filed under Section 10 of the Act, is very limited, which is to facilitate the completion of the project by removing the obstruction, if any. Unfortunately, the District Collector, Karur has misconstrued the provisions and the role required to be played by him. As a District Magistrate, he is not concerned with the project. He is neither the appellate authority nor an adjudicating one.

13. The project has been conceived by a Government of India undertaking, after conducting elaborate study through an expert body. Such a wisdom resulting in the project being conceived is not justifiable nor the same has been questioned before us. As stated, the scope and ambit of Section 164 of the Electricity Act and Sections 10 and 16 of the Act has been completely misconstrued. We may add that the learned single Judge has not been furnished with the appropriate judgments governing the field, which we are concern with. We do not wish to say anything more. Even on facts, the project is almost nearing completion. The project is to be completed by laying down towers connecting the overhead lines. Certainly, there is a public interest involved. The private respondents are merely executing the work. Ultimately, the project has been conceived and to be executed by M/s.Solar Energy Corporation of India Ltd., which is a Government of India undertaking. We do not find any malice in law or fact. On the question of transparency, we are not inclined to consider, as the project is nearing completion.

14. Thus, looking from any perspective, we are constrained to hold that the District Collector, Karur is required to pass appropriate orders to facilitate the completion of the work.

15. Under those circumstances, we direct the District Collector, Karur to accord appropriate permission to enable the work being completed within a period of one week from the date of receipt of a copy of this judgment. We make it clear that the permission



the private respondents to complete the project, even otherwise. We are also constrained to take note of the apprehension expressed by the learned senior counsel for the respondent No.1 and the learned Senior Counsel for the appellant with respect to the payment of compensation. We hope and trust that the respondents concerned will act keeping in mind the directives of the Central Government and in the light of the observations made by the Hon'ble Apex Court in the judgments referred supra.

16. The submission made by the learned senior counsel for the private respondents that after completion of the work and within a period of two weeks thereafter, adequate compensation would be paid, stands recorded.

17. The writ appeals are ordered accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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.

COPY TO:

1.THE DISTRICT COLLECTOR, KARUR DISTRICT, KARUR.

2.THE SECRETARY, MINISTRY OF POWER,
GOVERNMENT OF INDIA,
SHRAM SHAKTHI BHAVAN RAFI MARG,
NEW DELHI-1.

2CC'S TO Mr.S.Jeyasingh, Senior Panel Counsel
for Central Government, SR. 1532 and 1533

3CC'S TO M/S. KANIMOZHI MATHI, ADVOCATE SR:1441

2CC'S TO MR. M.DINESH, ADVOCATE SR:1586

W.A. (MD) Nos.1096 & 1098 of 2020 and
970/2020

Dated: 20.01.2021