



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.965 of 2022

R.Krishnan

..Appellant

Vs

1. The Chairman and Managing Director,
Tamil Nadu Electricity Board,
SIDCO Industrial Estate,
Guindy, Chennai - 600 032.
2. The Chairman,
Tamil Nadu Transmission Corporation,
(TANTRANSCO)
No.144, Anna Salai,
Chennai - 600 002.
3. The District Collector,
Thiruvallur Collector Office,
Master Plan Complex,
NH 205, Thiruvallur - 602 001.
4. The Executive Engineer,
O&M/Avadi/CEDC/West,
1st Floor, N.M.Road,
Avadi, Chennai-600 054.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 13.12.2021 passed in W.P.No.26239 of 2019.

Prayer in W.P.No.26239 of 2019: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 4th respondent to shift the high voltage overhead electricity lines (HVOTL) and tower that run above the petitioner's property at Survey No.85/1, Mabuskanpettai Village, Ponneri Taluk, Thiruvallur District admeasuring an extent of 2 acres and install the same along the nearby canal in the Government land at their own cost within stipulated period of time granted by this Honourable Court.



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For the Appellant : Mr.P.Chandrasekar
For the Respondents : Mr.S.Madhusudhanan
for respondents 1, 2 and 4

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The writ appeal is filed against the judgment dated 13.12.2021, whereby the writ petition preferred by the appellant challenging the erection of the tower by the respondent/Electricity Board was not accepted and was disposed of with appropriate directions.

2. Learned counsel for the appellant submits that after causing maximum damage to the property, the tower was erected and immediately on laying the electricity line, the appellant made a protest and even filed a writ petition, but it has been disposed of without a direction to remove the tower, mainly on the ground that the appellant did not raise any objection when the tower was erected.

3. It is further submitted that the judgment has been given in ignorance of the fact that before erection of the tower, the respondents were under an obligation to cause a notice in the newspaper and such procedure was not followed.

4. It is also submitted that the electricity line has been laid in a zigzag manner and the layout has also not been framed properly, as the respondent authorities colluded with the neighbouring land owners.

5. The prayer, accordingly, is to set aside the judgment with a direction to the respondents to remove the tower so as to be installed in the neighbouring government land.

6. We have considered the submission made by learned counsel for the appellant and find that the argument regarding collusion of the officers with the neighbours so as to lay the line in zigzag manner was not pleaded and it could not be shown even in the affidavit of the appeal.

7. Apart from the aforesaid, learned counsel for the appellant could not refer to any provision contemplating issuance of notice in the newspaper either under the Indian Telegraph Act, 1885 or the Rules framed thereunder. The argument aforesaid was not raised in reference to any of the provision, though it has been given in paragraph 3 of the judgment.



8. Taking overall facts into consideration, the learned Single Judge disposed of the writ petition permitting the appellant to make an appropriate application/representation to claim compensation amount, which otherwise is to be given by the respondents if they are erecting a tower in the land belonging to the appellant. Thus, a justified and equitable order has been passed by the learned Single Judge and, accordingly, we do not find any ground to cause interference therein, as the writ appellant has failed to substantiate any of the arguments raised before us.

9. Accordingly, the writ appeal fails and is dismissed. In case any representation/application to grant compensation is made by the appellant, the respondents would consider it within a reasonable period, preferably within three months, from the date of receipt of a copy of this order, and therein the respondents shall consider the amount of damage caused on account of erection of the tower so as to compensate the appellant.

There will be no order as to costs. Consequently, C.M.P.No.6194 of 2022 is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

sasi

To:

1. The Chairman and Managing Director,
Tamil Nadu Electricity Board,
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+1cc to Mr.S.Madhusudhanan, Advocate SR. No. 27716
+1cc to Mr.P.Chandrasekar, Advocate SR. No.27944
+1cc to Government Pleader SR. No.28181

W.A.No.965 of 2022

KV (CO)
PR (02/05/2022)