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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.24342 & 29060 of 2019
& W.M.P.Nos.24094 & 28842 of 2019

W.P.No.24342 of 2019

OPG Power Generation Pvt. Ltd.,

Represented by its Senior Manager, Legal

P.Venkatasubramanian

New No.6, Sardar Patel Road,

Guindy, Chennai - 600 032.

...

Petitioner

versus

1.The Inspector of Police,
F2 - SIPCOT Police Station,
Gummidipoondi - 601 201.

2.The Assistant Engineer,
State Highways Department,
GNT Road, Gummidipoondi Bazar,
Gummidipoondi, Tiruvallur - 601 201.

3.The Revenue Divisional Officer (Ponneri)
Railway Station Road,
NGO Nagar, Extension,
Ponneri - 601 204.

4.The Tahsildar,
Tahsildar Office,
Gummidipoondi - 601 201.



5.Sudha Ramu

...

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, praying to call for the records in Reference Na.Ka-06/F-2 SIPCOT Ka Ni/19 dated 16.08.2019 on the file of the first respondent and quash it as illegal and to further direct the respondents to remove any obstruction on Siddharajakandigai Road (ODR-State Highway).

For Petitioner : Mr.V.Raghavachari

For Respondent No.1 : Mr.A.Damodaran
Additional Public Prosecutor

For Respondent Nos.2 to 4 : Mr.P.Sanjay Gandhi
Additional Government Pleader

For Respondent No.5 : Mr.K.Yuvaraj

W.P.No.29060 of 2019

M.Ramu

...

Petitioner

versus

1.The Secretary to State Highways Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009.

2.The Divisional Engineer to State Highways Department,
Tiruvallur Division,
Tiruvallur - 602 001.

3.The Assistant Divisional Engineer,



State Highways Department,
Construction and Maintenance,
Gummidipoondi Sub-Divisional,
Payanar Maligai, GNT Road,
Gummidipoondi, Tiruvallur District - 601 201.

4.The District Collector,
Tiruvallur District,
Tiruvallur - 602 001.

5.The Revenue Divisional Officer,
Ponneri Divisional,
Tiruvallur District - 601 204.

6.The Tahsildar,
Gummidipoondi Taluk,
Tiruvallur District - 601 201.

7.The Village Administrative Officer,
Paapankuppam Village,
Sittharaja Kandikai,
Gummidipoondi Taluk,
Tiruvallur District - 601 201.

8.OPG Power Generation Pvt. Ltd.,
Represented by its Senior Manager, Legal
P.Venkatasubramanian
New No.6, Sardar Patel Road,
Guindy, Chennai - 600 032.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, praying to direct the respondents 1 to 7 to take appropriate action on the representation dated 04.09.2019 given by the petitioner, in accordance with law within a stipulated period and direct them to file compliance report before this Court.

For Petitioner

: Mr.K.Yuvaraj



For Respondent No.8 : Mr.V.Raghavachari



direct the respondents 1 to 7 to take appropriate action on the petitioner's representation dated 04.09.2019 in accordance with law.

3. The eighth respondent in W.P.No.29060 of 2019 is the petitioner in W.P.No.24342 of 2019. The petitioner is the Power Generation Company and it has a thermal power plant and a long term power purchase agreement of 15 years with SIPCOT. The petitioner transports its raw materials through lorries via Siddharajakandigai. The fifth respondent, who is the wife of the petitioner in W.P.No.29060 of 2019 has obstructed the said pathway by claiming pathway right over the said Highways Department. At the peace committee held by the Tahsildar in this regard, the fifth respondent has claimed Rs.75,00,000/- as compensation to use her land as a pathway by the eighth respondent. In this regard, the first respondent in W.P.No.24342 of 2019 has passed an order on 16.08.2019 by stating that 107 Cr.P.C. proceedings have been initiated with regard to the said pathway in Crime No.29 of 2019 under Section 107 Cr.P.C. by the RDO and hence, both the parties are prevented from using the pathway. In the said order of the first respondent, it is observed that the fifth respondent's husband, who is the petitioner in W.P.No.29060 of 2019 has produced the certificate given



by the Tahsildar, Gummdipoondi and other revenue documents to show that he is the owner of the subject matter.

4. The learned Additional Government Pleader for the Highways Department, who has been arrayed as parties in both the writ petitions have submitted that the Chief Engineer of Highways Department [Construction and Maintenance] has written a letter on 24.11.2022 to the Chief Secretary of Highways Department to sanction a sum of Rs.11,09,866/- as compensation to the land owner namely the petitioner in W.P.No.29060 of 2019. In this regard, the Joint Secretary to Government has also addressed to the Government Advocate for Highways Department that the proposal is under consideration. However, the said information were not furnished to the petitioner M.Ramu in W.P.No.29060 of 2019. The other Government respondents have filed a counter by stating that after the road has been laid in the subject matter, it has been used as a public pathway and hence the petitioner Ramu is not entitled to cause any obstruction.

5. The learned counsel for the petitioner in W.P.No.29060 of 2019 submitted that the ownership of the petitioner over the subject

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matter is not denied by all the Government respondents and without issuing any compensation his land has been acquired and even without notice, road has been laid on the same. Since he is the original owner of the subject property, the eighth respondent cannot be allowed to use the pathway and hence, he has given a representation to the Government authorities to make an enquiry in this regard and to remove the structures to be put on the subject matter and hand over the compensation to him.

6. The learned counsel for the petitioner in W.P.No.24342 of 2019 submitted that so far as the petitioner is concerned, it has been using the road as a pathway and even if the petitioner got any claim over the subject matter, he has got to invoke the jurisdiction in the Civil Court and the first respondent has got no authority to pass any order restricting the petitioner from using the pathway. In view of the said order, the fifth respondent namely wife of the petitioner in W.P.No.29060 of 2019 is causing obstruction to transport the vehicles on the said pathway. Hence, he has filed the writ to quash the order of the first respondent dated 16.08.2019.



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7. The submissions made by the respective counsel on either side and the records would show that the third respondent State Highways Department in W.P.No.29060 of 2019 had taken possession of the petitioner's lands in Survey Nos.298/17B, 298/18B, 298/19B and 298/20B without paying any compensation and without his notice, has laid down the public road and even that was used by the public and the eight respondent. The grievance of the petitioner is that his lands are being used by so many people without his knowledge and the Government has also not paid any compensation for acquiring the same. Since the roads have already been laid and they have been put to use, the petitioner Ramu could have raised his objections at the time when the road was laid; in such case the omission to pay compensation would have come to light and the petitioner could have compensated properly.

8. Better late than never, the third respondent seems to have taken initiation atleast now by addressing the Government to fix the compensation of Rs.11,09,866/-. Even now the land owner was not informed about the said proceedings. Since the petitioner's grievance can be properly redressed by way of compensation, it is upto the petitioner to make



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appropriate claim for compensation and make his appearance whenever called for before the third respondent or the Government authorities in this regard. Since the third respondent has taken initiative steps at a belated stage, I feel it is appropriate to impress the Government respondents to complete the sanction and disbursal of compensation within a period of three months from the date of receipt of a copy of this order.

9. As of now there is no obstruction for the eight respondent to make use of the pathway. Since the compensation proceedings has been initiated, the petitioner will not obstruct the eighth respondent from using the pathway for transporting his vehicles on the same. If the eight respondent is still aggrieved, he is at liberty to take appropriate proceedings before the Civil Court.

10. With these observations, both the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.12.2022



W.P.Nos.24342 & 29060 of 2019
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Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To

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R.N.MANJULA, J.

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