



W.P(MD)No.562 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.562 of 2021

K.Vellaichamy

... Petitioner

Vs.

1.The Superintendent Engineer (TNEB),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Sivaganga Electricity Distribution Circle,
Sivagangai District – 630 562.

2.The Executive Engineer (E.E.),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Karaikudi Division,
Sivagangai District – 630 562.

3.The Assistant Engineer (AE),
Town/South/TANGEDCO,
Karaikudi,
Sivagangai District – 630 562.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to remove the high density dangerous cable wire laid down under the ground level of earth of his property and also shifting or relocating the erected electricity



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transformer in the middle of his patta land (Patta No.1187) in Survey No.7/58 to the total extent of 0.02.0 Hectors (2225 sq. ft.) at Ariyakudi Village and Panchayat, Sakkottai Union, Karaikudi Taluk, Sivagangai District to some other nearby unobjectionable available vacant government pormboke property based on the petitioner's representation dated 16.03.2020.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner is the owner of the petition mentioned land. He is a senior citizen. On his land, a huge transformer has been installed even without getting his consent. The petitioner is residing elsewhere and he came to know about the same only much later. He has been knocking the doors of the respondents all these years for shifting the transformer. The respondents stated that if the petitioner would remit a sum of Rs.3,37,310/-, they would shift the distribution transformer. This writ petition has been filed on the footing that since the petitioner's consent was not taken, the transformer and the poles in



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question will have to be removed even without the petitioner having to make any payment.

3.The learned counsel for the petitioner draws my attention to the decision reported in ***CDJ 1999 MHC 282 (S.Kannappan (Died) and Others Vs. The Commissioner of Tiruvottriyur Municipality, Madras and Others)***. I must straightaway reject the said contention because the said decision was rendered when the new Act was not in force. Under the present statutory regime, while the electricity board authority has to put the land owner on notice, his consent is not required. But the land owner is entitled to demand compensation for the injury and loss suffered by him. I therefore made it clear to the writ petitioner's counsel that the only remedy I can grant is that the petitioner can be permitted to go before the jurisdictional District Collector, who can be mandated to determine the compensation payable to the petitioner.

4.The petitioner has enclosed the photographs in the typed set of papers. It is seen that a huge transformer has been erected right on the patta land of the petitioner. The conduct of the respondent in locating the pole and running the cable wires right through the middle of the petitioner's land cannot be appreciated. The petitioner is having hardly five cents of land and almost the



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entire land has been rendered unfit for putting up any construction. When I suggested that proper compensation can be paid to the petitioner herein, the petitioner's counsel stated that he would instead bear the cost of shifting.

5.The estimate prepared by the respondents appears to be patently unreasonable. Without even putting the petitioner on notice, the transformer in question was installed on the petitioner's land and to call upon the petitioner to pay a sum of Rs.3,37,310/- appears to be grossly unfair and inequitable. The respondents are therefore directed to prepare a revised estimate. The respondents have to bear in mind that they have used the petitioner's land without paying single paisa towards compensation. The respondents while preparing the fresh estimate will bear this aspect in mind. The second respondent is directed to prepare a revised estimate after taking the approval of the first respondent and serve the same on the petitioner within a period of three weeks from the date of receipt of a copy of this order. If the cost set out in the revised estimate is unreasonable, it is open to the petitioner herein to move this Court again for relief. If the amount indicated in the revised estimate is acceptable to the petitioner, the petitioner shall pay the same and the shifting will be done within a period of eight weeks thereafter.



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6.The writ petition is disposed of with the aforesaid directions. No costs.

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Index : Yes / No
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G.R.SWAMINATHAN, J.

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