



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON :05.01.2021
PRONOUNCED ON : 21.01.2022
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)No.21504 of 2021

and

W.M.P. (MD)No.18072 of 2021

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C.George Prabhakar

... Petitioner

vs.

1.The Chairman,
Tamil Nadu Electricity Board, Chennai.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Dindigul District.

3.The District Collector,
Dindigul District, Dindiugl.

4.The Assistant Engineer,
(Operation and Maintenance),
TANGEDCO, Angu Nagar Branch,
Kamatchipuram Dindigul District.

5.The Taluk Surveyor,
Dindigul West Taluk, Dindigul District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the respondents 1, 2 and 4 from drawing high tension electricity power line across the petitioner's house property situated at Plot No.22 comprised in Survey No.169/19 at Pallapatti Village, Dindigul District.

For Petitioner :Mr.T.Lenin Kumar
For R1, R2 and R4 :Mr.S.Dheenadhayalan
For R3 and R5 :Mr.N.Satheesh Kumar
Additional Government Pleader

O R D E R

This Writ Petition has been filed in the nature of a Mandamus seeking to forbear the first, second and fourth respondents from drawing high tension electricity power line across the petitioner's house property situated at Plot No.22 in Survey No.169/16 at Pallapatti Village, Dindigul District.



2. In the affidavit filed in support of the Writ Petition, the petitioner, C. George Prabhakar, stated that he and his wife had purchased a housing plot measuring 780 sq.ft., in Plot No.22 in Survey No.169/16 at Pallapatti Village, Dindigul District, by a registered sale deed vide Doc.No.2896/2008 registered in the office of the Joint Sub Registrar, Dindigul on 28.05.2008. Patta had been issued and he is also paying property tax. He had also applied for building plan permission with the Panchayat President, Pallapatti Panchayat. Permission was also granted to construct a residential building measuring 584 sq.ft. He had also constructed the residential building. There is an open space to an extent of 186 sq.ft., in front of the house. He had rented out a portion in the ground floor to run a clinic, namely, "Sam Clinic".

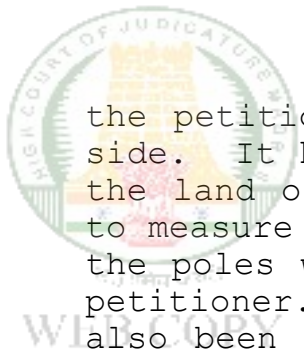
3. A high tension electricity line was running on the back side of the house. It is alleged that the said high tension electricity line is being shifted from the back side to the front side of the house. It is claimed that this was done by the fourth respondent, who proposed to draw high tension power line between two electric poles erected on the two sides of the house. The petitioner claims that he had left open the space length about 9 feet and the width of the road situated in front of the house is 25 feet. He further claimed that the fourth respondent had erected the poles 5 feet away from the road.

4. It is claimed that if the high tension electricity line is drawn between the two electric poles, it will run over the property of the petitioner. The petitioner gave a representation on 29.11.2021. Since no action had been taken, the present Writ Petition had been filed seeking the relief as stated above.

5. A counter affidavit had been filed by the fourth respondent/Assistant Engineer (Operation and Maintenance), TANGEDCO, Kamatchipuram, Dindigul District, wherein, it had been claimed that electric poles were laid at the road margin to deviate the existing 22 KV Industrial Feeder Line fed from 110/22 KV Angunagar SS at S.F.No.169/34, Kottapatty of Pallapatty Village Panchayat to comply with an application, dated 12.08.2021, forwarded by one D.Sarvanaprakash, who had also paid the required fees and had also accepted to pay the Deposit Contribution Work (DCW).

6. It had been stated that spot inspection was also made. The estimate was also prepared and sanction was obtained from higher officials to deviate the route from the patta land of that applicant into Kottapatty Road side without affecting any consumers including the pedestrian and public.

7. It had been further stated that when the pole was erected, the petitioner raised an objection. It has been stated that the building of the petitioner is inside their land, but



the petitioner had constructed a colling shed encroaching the road side. It had been asserted that the poles have not been erected in the land of the petitioner. The petitioner also sought a surveyor to measure his land. It had been stated that the surveyor found that the poles were laid at the road margin and not in the lands of the petitioner. It had been stated that D.Saravanaprakash, should have also been impleaded as a party to the Writ Petition. It had been urged that the Writ Petition should be dismissed.

8.Heard arguments advanced by Mr.T.Lenin Kumar, learned Counsel for the petitioner, Mr.S.Dheenadhayalan, learned Standing Counsel for first, second and fourth respondents and Mr.N.Satheesh Kumar, learned Additional Government Pleader for third and fifth respondents.

9.The facts are simple. The petitioner had purchased a plot of land measuring 780 sq.ft., in S.No.169/16 at Pallapatti Village, Dindigul District. He had constructed a house to an extent of 584 sq.ft. In the front portion abutting the road, he had left a vacant area of 186 sq.ft. The road abutting the petitioner's plot/house measures 25 sq.ft. Giving a road margin of 5 feet, the respondents appear to have erected two electric poles.

10.Admittedly, the electric poles have been erected outside the house of the petitioner and in the road margin. The respondents intend to draw a high tension wire across the two electric poles. This is objected by the petitioner. It is contended by the respondents that the petitioner had put up a colling shed abutting the compound wall and close to the road side. The petitioner had not denied this fact by filing any rejoinder to the counter affidavit filed by the respondents.

11.Further, admittedly, the residential house of the petitioner is well behind and open space of 186 sq.ft, is there between the compound wall abutting the road and the residential house of the petitioner. The only construction is this particular colling shed put up by the petitioner. It is not the case of the petitioner that he is using that particular colling shed for his residential purpose. In his affidavit itself, he had stated that he is using the first floor for his residential purpose and had let out the ground floor for a clinic.

12.Putting up an electric pole on the road side cannot be objected by the petitioner, since it is only for public purpose. If the High tension wire is drawn over the same, necessary safeguards will naturally be taken by the respondents, since they have to keep in mind the safety measures to be adopted taking into account the safety of the pedestrians and the vehicular traffic which travel along the road side. This duty is cast on the respondents.



13.A direction is therefore given that the respondents should ensure that proper safety measures are taken while commencing or activating the high tension wire. Since it is for public purpose, the petitioner cannot object to the same. In fact, at a later point of time, the petitioner may also benefit, if he wants to upgrade the electricity service connection to his house.

14.Along with the Writ Petition, the petitioner had filed photographs and it is seen that the electric poles are situated outside the house of the petitioner. There is an electric line goes at a considerable height. There is also a photograph showing the clinic, "Sam Clinic", and apparently patients sitting outside. Between the road side and this particular clinic, the construction seems to be covered with asbestos roofing.

15.The respondents have also given a rough sketch enclosed along with the counter affidavit. The same is annexed to this order copy as Annexure "A". It is seen that the proposed high tension line runs outside the house of the petitioner. It similarly runs outside the house of the neighbours of the petitioner also. They have not raised any objections. The respondents have every right to lay a high tension wire or any other electric wire running overhead outside any house and over the platform abutting the road. This cannot be objected by the petitioner.

16.It is also seen that a surveyor had measured the property of the petitioner at the request of the petitioner. According to the respondents, the report of the surveyor had very clearly indicated that the electric pole is situated only outside the premises of the petitioner herein. The sketch given by the Tahsildar pursuant to the surveyor had also been filed as document and the same is also annexed to this order copy as Annexure "B". It is seen that the two electric poles are situated outside the compound wall and not abutting the property of the petitioner. They are actually abutting the neighbours' property. Only the electric line runs across and over the platform.

17.The scope of Writ Court under Article 226 of Constitution of India is extremely narrow and the relief sought by the petitioner cannot be granted and therefore, the Writ Petition is dismissed.

18.Let the respondents continue and complete the work. After activation of the electric wire, if the petitioner has any grievance that there would be danger to his property or to any person, he may give a further representation to the respondents and if that is given, the respondents may act in manner known to law and examine whether an alternative route can be given for drawing the electric line. The said observation is made keeping in mind the apprehension raised by petitioner.



19. In the result, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ENCL.: XEROX COPY OF ROUGH SKETCH.

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To

1.The District Collector,
Dindigul District, Dindiugl.

2.The Superintending Engineer,
Tamil Nadu Electricity Board,
Dindigul District.

3.The Assistant Engineer,
(Operation and Maintenance),
TANGEDCO, Angu Nagar Branch,
Kamatchipuram Dindigul District.

4.The Taluk Surveyor,
Dindigul West Taluk, Dindigul District.

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-2141[F] dated 24/01/2022)

Order made in
W.P. (MD) No.21504 of 2021
21.01.2022

NSN(CO)

TR(02.02.2022) 5P 6C