



W.P.No.629 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.629 of 2023
and W.M.P.No.566 of 2023

Asreen Banu

... Petitioner

Vs.

1.Tamil Nadu Transmission Corporation Ltd., (TANTRANSCO),
Rep. by its Chairman,
10th Floor-NPLRR Maaligai,
No.144, Annasalai,
Chennai-600 002.

2.The District Collector,
Office of the District Collector,
Coimbatore.

3.The Superintendent Engineer,
General Construction Circle,
182, Dr.Subbarayan Road,
Tatabad, Coimbatore-641 012.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the rejection order Lr.No.C.1141/SE/GCC/CBE/DB/CHD/F.Petition dated 08.06.2022 issued by the 3rd respondent and quash the same for a consequential



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direction to the respondents 1 to 3 to pay the compensation for the high-tension tower erected and the electric line passing over the petitioner's land situated in S.No.97/3A in Vettuvapalayam Village, Avinasi Taluk, Tiruppur District.

For Petitioner : M/s.L.Parvin Banu
for K.C.Karl Marx

For Respondents : Mr.D.R.Arun Kumar
Standing Counsel for TNEB
for R1 and R2

Mr.S.J.Mohamed Sathik
Government Advocate for R3

ORDER

The TANGEDCO has erected an electric tower on the petitioner's property in April 2016. Therefore, the petitioner seeks compensation for the land and damages to her crops.

2.The third respondent, in its counter, submitted that this matter is now governed by G. O.(Ms).No.86, dated 30.10.2019, and that it only applies prospectively. This contention of the third respondent is untenable. Section 10 of the Indian Telegraph Act, 1885 which governs the right of the distributing licensee to install towers and draw electric lines mandates the payment of compensation. This



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statutory right of the petitioner cannot be taken away by an executive order. This

apart, when a right to property is involved, it cannot be taken away by the executive except by the procedure established by law and inasmuch as the procedure established by law is spelt out under section 10 of the Indian Telegraph act, 1885, the TANGEDCO is under obligation to abide by it.

3.The TANGEDCO is also informed that right to property is now assumes the category of a fundamental right to life, and it cannot be interfere with the fundamental rights of the citizens on its will.

4.In view of the above, this court directs the second respondent to determine the compensation payable to the petitioner, after holding an enquiry, and dispose of the same within a period of twelve (12) weeks from the date of receipt of an online copy or the date on which the order is hosted in the official website, whichever is earlier.



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5.This Writ Petition stands allowed accordingly. No Costs. Consequently, the connected miscellaneous petition is closed.

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Anu

Index : Yes / No

Neutral citation : yes/no

To

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