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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.12676 of 2023

Tamil Nadu Plot Promoters Association,
Rep. by its Secretary,
Ravi,
S/o.Mohan,
No.32-K.P.Dhasan Salai,
Teynampet,
Chennai – 600 018.

Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maaligai,
No.1, Gandhi Irwin Road, Egmore,
Chennai – 600 008.

3.The Chief Engineer,
Tamil Nadu Electricity Board,
6th Floor, TANTRANSCO Building,
No.144, Anna Salai,
Chennai – 600 002.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents 1 and 2 to treat the lands fall under E.B. Tower lines as open Space Reservation (OSR) area based on the



petitioner's representation dated 25.05.2022 and consequently direct the 3rd respondent to issue No Objection certificate for the lands fall under E.B. Tower lines.

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For Petitioner : Mr.K.Balu

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader for R1

Mrs.R.Revathy
Standing Counsel for R2

Mr.D.R.Arun Kumar
Standing Counsel for R3

ORDER

This writ petition has been filed for issue of writ of mandamus directing the 1st and 2nd respondents to consider the representation made by the petitioner Association on 25.05.2022, wherein, the Association has requested for treating the lands falling under the EB Tower lines as Open Space Reservation area.

2.When the matter came up for hearing on 26.04.2023, this Court passed the following order:

Mrs.S.Mythreye Chandru, learned Special Government Pleader takes notice for 1st respondent. Mrs.R.Revathy, learned Standing counsel takes notice for 2nd respondent and Mr.D.R.Arun Kumar, learned Standing counsel for 3rd respondent.



2. *The main issue that is involved in this writ petition pertains to the request made by the petitioner association to treat the lands that fall under the EB Tower lines as Open Space Reservation area and to give a No objection certificate to the association. The request made by the association was also considered by CMDA and it is apparent from the letter dated 19.12.2022 addressed by the CMDA to the 3rd respondent that the area under the tower lines is a non-habitation and non-saleable area. The CMDA has taken a stand that the members belonging to the association have paid the sale consideration even for those lands which pass under the EB tower lines.*

3. *The 3rd respondent has to necessarily come up with their stand by filing a counter affidavit and only thereafter, any positive directions can be issued in this writ petition.*

4. *Post this writ petition under the caption “for orders” on 07.06.2023. In the meantime, the 3rd respondent is directed to file the counter affidavit.*

3.A counter affidavit has been filed by the 3rd respondent. The 3rd respondent apart from extracting the relevant Regulations under the Development Regulations and the relevant provisions under the Electricity Rules, 1926 has taken the following stand:

I submit that OSR lands are reserved for developing parks, play ground, recreational facilities for public use while developing the property. In view of the safety to the public, developing such



facilities under High voltage and Extra High voltage transmission line is strictly not advisable. The compensation for the land for laying of

EHT lines erected after 22.11.2017 are being made as per G.O.(MS)No.63, Dt.22.11.2017. Since, there is a public movement on OSR land, the request of CMDA to treat the lands passing under EB tower lines as OSR lands is not feasible of compliance on safety aspects to human beings.

4.Heard Mr.K.Balu, learned counsel appearing on behalf of the petitioner, Mrs.S.Mythreye Chandru, learned Special Government Pleader appearing on behalf of the 1st respondent, Mrs.R.Revathy, learned Standing Counsel appearing on behalf of the 2nd respondent and Mr.D.R.Arun Kumar, learned Standing Counsel appearing on behalf of the 3rd respondent.

5.The learned counsel for the petitioner submitted that wherever the development takes place covering an extent of 3000 Sq.Mtrs. to 10,000 Sq.Mtrs., 10% of the area must be set apart as open space area and it has to be transferred to the local body free of cost by executing a Gift Deed. The learned counsel submitted that the only objection that has been raised by the 3rd respondent is with regard to putting up any building or storing materials etc., within the area that is going to be treated as OSR and which falls directly under the EB Tower lines. The learned counsel further submitted that the petitioner Association will give an undertaking that the OSR area will be kept intact and no construction or storage of materials will



takes place in violation of Rule 80 of the Electricity Rules and Regulation 64 of the Notification that has been mentioned in the counter affidavit filed by the 3rd respondent.

6.The Development Regulations specify the manner in which open space area can be utilized. Ultimately, when the OSR area is gifted, the same is retained by the local body only in its capacity as a Trustee and the land cannot be put to any use except to retain it as open space area. If no constructions are going to come up or any materials are going to be stored in the open space area and it is going to be left as such, the concerns raised by the 3rd respondent can be attended too.

7.In the light of the above discussion, there shall be a direction to the petitioner Association to make a fresh representation to the 1st and 2nd respondents along with a copy of this order. The Association shall also give a specific undertaking that the open space area which is going to be gifted to the local body will be kept intact and no construction or any other activity will take place in that area which falls under the EB Tower lines. On receipt of the representation, the 1st and 2nd respondents shall consider the same in line with the order passed in this writ petition and a final decision shall be taken. The 1st and 2nd respondents shall take a final decision, within a period of eight weeks from the date of receipt of copy of this

order.



N. ANAND VENKATESH, J.

ssr

8.This writ petition is disposed of in the above terms. No Costs.

14.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

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