



W.P.No.26178 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARHIKEYAN

W.P.No.26178 of 2022 and

W.M.P.No.25276 of 2022

Muthusamy

.. Petitioner

vs

1. The District Collector
Tiruppur District, Tiruppur.
2. The Superintending Engineer
Tamil Nadu Generation and Distribution
Corporation Limited
Palladam, Tiruppur District.
3. The Superintendent of Police
Tiruppur District, Tiruppur.
4. The Inspector of Police
Kundadam Police Station
Tiruppur District.

5. Mailsamy

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of order in Moo.Mu.No.1/53674/2022-E-5 dated 22.09.2022 on the file of the first respondent herein and quash the same.



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For Petitioner : Mr.N.Ponraj

For Respondents : Mr.T.Seenivasan
Special Government Pleader
for respondents 1, 3 & 4

Ms.V.Revathy
for Mr.L.Jai Venkatesh
Standing Counsel
for respondent 2

Mr.M.Guruprasad
for respondent 5

ORDER

The writ petition has been filed in the nature of a Certiorari with respect to an order dated 22.09.2022 in Moo.Mu.No.1/53674/2022-E-5, passed by the first respondent / District Collector, Tiruppur District in his capacity as District Magistrate of Tiruppur.

2. The petitioner Muthusamy, in his affidavit filed in support of the writ petition, had stated that he is doing agricultural activities in his land, which measures about 6.64 acres and is situated in S.F.No.152-A1 in Suriyanallur Village of Dharapuram Taluk in Tiruppur District. He claims that there is a common East-West itteri on the northern boundary of his property. He further claims that the said pathway has been used in common for several decades by him and others, including the fifth respondent Mailsamy. It had been stated that the officials of the



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second respondent / Superintending Engineer of TANGEDCO had entered into the property of the petitioner and had taken measurements of the property as if it is a common pathway. They have stated that they are going to put up electric poles and transformers to transport electricity line to give connection to the borewell of the fifth respondent.

3. The petitioner's grievance is that the proposed place for putting up electric poles and transformers are located within his patta land and is not located in the common itteri. He had then taken steps to fence the northern boundary of his property but the same was prevented by the fifth respondent. In view of these circumstances, the petitioner had, in my opinion, correctly, approached the jurisdictional Civil Court and had filed O.S.No.126 of 2022. In such suit, he had impleaded the electricity officials as 1-4 defendants and the fifth respondent herein as fifth defendant and for good measure for reasons which he alone knows, had also impleaded the friends of the fifth respondent as 6-9 defendants.

4. The suit had been filed seeking two reliefs. The first relief was for a permanent injunction against the electricity officials from putting up electric poles and transformers for transporting electric supply to the fifth respondent herein /



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fifth defendant in the said suit. The second relief was to seek protection for putting up a fence enclosing the northern boundary of the petitioner's property. I am informed that the suit is still pending.

5. In the meanwhile, the second respondent herein appears to have given a letter to the first respondent on 12.09.2022 calling upon the first respondent to enter into the dispute and pass necessary orders, taking recourse to Section 16 of the Telegraph Act, 1885 and enter upon the land of the petitioner for the purpose of putting up electric poles and transformers. The order passed by the first respondent / District Collector dated 22.09.2022 is impugned in the present writ petition.

6. As stated, the District Collector entered into the frame only because of the letter issued by the second respondent / Superintending Engineer of TANGEDCO, Palladam at Tiruppur. That requisition was given by the second respondent on 12.09.2022. However, the impugned order proceeds that notice for conducting personal enquiry was fixed for the hearing date, 5.09.2022 and, complaining that the petitioner did not participate in such enquiry, though the VAO had confirmed that notice had been served on the petitioner, the impugned order had been passed.



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7. I am at loss and wonder how when requisition was given on 12.09.2022, the first respondent could have conducted an enquiry on 05.09.2022. Quite apart from that issue, which the District Collector alone can explain and is beyond the comprehension of this Court, it is seen that the District Collector had also entered into a wild discussion about the strengthening of interstate transmission network and that for the economic future growth of the Country, he can take a decision that the electric pole should be put up at any place, which he thinks is fit to provide electricity connection to the fifth respondent.

8. The said order is straight away struck down by me. It does not have any lawful reasons. It has reasons which are incomprehensible. The reasons clearly show that it has been passed only on extraneous circumstances.

9. For laying of electric poles or transformers for providing electric supply to a private individual, the Collector has no authority to enter and cannot invoke Section 16 of the Telegraph Act, 1885. It is also seen that the enquiry was conducted on 05.09.2022 whereas, the requisition by the second respondent / Superintending Engineer of TANGEDCO was given only on 12.09.2022, calling upon the first respondent to conduct such enquiry. The impugned order is therefore



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10. Having come to that decision, let me now focus my attention to the civil suit which is now pending. The petitioner has sought a comprehensive relief in the said civil suit. Let the 1-4 defendants therein take a considered decision about granting or otherwise of electricity connection to the fifth defendant therein / fifth respondent herein. If they are of the impression that they can give electricity connection, then since they are parties to the suit, let them file necessary application before the said Munsif Court seeking permission to grant electricity connection and if such application is filed, the District Munsif may examine the same independently taking into account the rights of the petitioner. If the said connection is granted only according to the directions of that Court and pending the final disposal of the suit and subject to the final disposal of the suit then necessary undertakings from the fifth defendant therein must be obtained. Granting of electricity connection and putting up poles within the patta lands of the petitioner are two separate issues.

11. Let the 1 - 4 defendants, namely the electricity officials, give due respect to the process of Court and the pendency of the suit before the District Munsif Court at Dharapuram in O.S.No.1261 of 2022. They cannot circumvent the



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pendency of the suit and take the issue in their own hands and provide electricity connection and take cover and shelter under the order of the District Collector. The District Collector should also realize his responsibility.

12. I am confident that the District Munsif, Dharapuram, if he / she finds that the petitioner herein has made out a *prima facie* case for grant of injunction, would also give such a finding on that particular ground. These reasons are stated only for the purpose of this writ petition, but, the District Munsif, I am confident, would give a finding in the suit only based on the pleadings therein, and the oral and document affidavits adduced.

13. Therefore, holding as above and stating that the electricity connection, if to be granted, can be granted only after informing the District Munsif Court, but, electric poles cannot be put up within the lands of the petitioner, the writ petition stands disposed of since further directions have been given. The impugned order is struck down. There will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index: Yes/No
Neutral Citation: Yes/No
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C.V.KARHIKEYAN,J.

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