



W.P(MD)No.4075 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4075 of 2013

and

M.P.(MD)No.1 of 2013

K.Mallika

... Petitioner

Vs.

1.The Assistant Executive Engineer,
(Operation and Maintenance),
Tamilnadu Electricity Generation and
Distribution Corporation,
Punalkulam, Kandarakottai,
Pudukkottai District.

2. The Assistant Electrical Engineer,
(Construction Division),
Tamilnadu Electricity Generation and
Distribution Corporation,
Kandarakottai, Pudukkottai District.

3.R.Ameer John

... Respondents

*(R3 is impleaded vide order dated 10.07.2023
in M.P.(MD)No.1 of 2015 in
W.P.(MD)No.4075 of 2013 by GRSJ).*

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the



W.P(MD)No.4075 of 2013

respondents to remove the electrical poles planted on the Patta land of the petitioner bearing Survey Nos.356, 356/1 and 354 of Mudukulam Village, Kandarakottai Taluk by considering the petitioner's representation dated 13.06.2011 within a stipulated period that may be fixed by this Court.

For Petitioner : Mr.S.Chandrasekaran

For Respondents : Mr.S.Deenadhayalan,
Standing Counsel for R1 & R2.
Mr.B.Rooban for R3.

ORDER

Heard the learned counsel on either side.

2.The third respondent herein sought free agricultural electricity service connection. The respondents 1 and 2 herein in the process of granting such connection (S.C.No.660/15HB) planted as many as seven poles on the petition mentioned patta lands. The specific stand of the petitioner is that her consent was not obtained.



W.P(MD)No.4075 of 2013

WEB COPY

3.The learned standing counsel for TANGEDCO could not deny the said assertion. His contention is that in villages, in order to grant such connections, erection of electricity poles on the patta lands is inevitable. He would add that for giving connection to the petitioner's agricultural lands, such poles have been erected on others' patta lands. According to TANGEDCO, it is a case of pot calling the kettle black.

4.The learned counsel for the impleaded respondent submitted that since the third respondent has been enjoying service connection for more than a decade, it may not be disturbed.

5.I carefully considered the rival contentions and went through the materials on record. If authorization had been obtained under Section 164 of the Electricity Act, 2003, the position would be different. The case on hand would fall under the Works of Licensee Rule, 2006. In such cases, the licensee can carry out the works only with the prior consent of the owner or occupier of any land. Admittedly, consent of the writ petitioner has not been taken. Therefore, TANGEDCO has only two



W.P(MD)No.4075 of 2013

options available. (a) It can convene a meeting of the writ petitioner, the third respondent and also the other villagers. The petitioner can be informed that if she is insisting on removal the electric poles planned on her land, the same logic will be applied in her case also. A consensus can be arrived at and appropriate compensation can be arranged to be paid to the petitioner. Such a meeting will be organized within a period of six weeks from the date of receipt of a copy of this order and attempt shall be made to arrive at consensus. (b) If such consensus could not be arrived at, the only course open to TANGEDCO is to remove the poles installed on the writ petitioner's lands. In that event, TANGEDCO will endeavour to provide electricity service connection to the third respondent through some other route. Since the third respondent has already been enjoying service connection and it is only an agricultural service connection, TANGEDCO will see to it that the third respondent is not deprived of agricultural service connection. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



W.P(MD)No.4075 of 2013

WEB COPY

6.This writ petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

10.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.4075 of 2013

G.R.SWAMINATHAN, J.

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W.P(MD)No.4075 of 2013

10.07.2023
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