



W.P.(MD)No.3045 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.3045 of 2020

V.Abraham

... Petitioner

Vs

- 1.The Chairman cum Managing Director,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai.
- 2.The Chief Engineer Distribution,
Tirunelveli Region,
TANGEDCO, Tirunelveli-627 001.
- 3.The Assistant Executive Engineer,
Transmission Line Construction-I (I/C).
Tamil Nadu Electricity Board,
Tirunelveli-627 001.
- 4.The General Manager,
Kalpataru Power Transmission Limited., (KPTL),
Plot No.101, Part-III, GIDC Estate,
G.H.Road, Sector-28,
Gandhi Nagar, Gujarat-380 028.
- 5.The Site Manager,
Kalpataru Power Transmission Limited., (KPTL),
Site Office, Sollampatti Village,
Tirunelveli-625 071.



W.P.(MD)No.3045 of 2020

6.The District Collector,
Tirunelveli District.

...Respondents

(Respondent No.6 is impleaded vide Court Order, dated 21.04.2023
in W.M.P.(MD).No.3775 of 2020 in W.P.(MD).No.3045 of 2020)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the third respondent vide கடித.எண்.உ.செ.பொ/பெ.மிவ.க.I (I/C)/திலி/கோ.புகார் மனு/அ.எண். 395/20 நாள்: 04.01.2020 and quash the same as illegal and consequently direct the respondent to pay a fair compensation on par with other beneficiaries.

For Petitioner : Mr.D.Saravanan

For R-1 to R-3 : Mr.S.Dheenadhayalan
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned proceedings of the third respondent, dated 04.01.2020 and for a consequential direction to the Electricity Department to pay fair compensation to the petitioner on par with other beneficiaries.

2 .Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of respondent Nos.1 to 3.



W.P.(MD)No.3045 of 2020

WEB COPY

3. The case of the petitioner is that the Electricity Board wanted to put up transmission towers and in that process, the towers were also erected in the subject property at Survey Nos.19, 44, 47 and 48. This happened during the life time of the father of the petitioner. According to the learned counsel for the petitioner, the respondents had assured payment of a sum of Rs.22,00,000/- (Rupees Twenty Two Lakhs only) as compensation. During the life time of the father of the petitioner, a cheque for a sum of Rs.2,90,000/- (Rupees Two Lakhs and Ninety Thousand only) was issued in the year 2016. The father of the petitioner died in the year 2017 and the respondents issued a cheque for a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) to the petitioner. The petitioner refused to receive this cheque on the ground that the balance of Rs.18,10,000/- (Rupees Eighteen Lakhs and Ten Thousand only) must be paid as agreed by the respondents.

4. The petitioner made a representation in this regard and the request made by the petitioner was considered by the third respondent. The third respondent through the impugned proceedings, dated 04.01.2020, rejected the claim made by the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.



W.P.(MD)No.3045 of 2020

WEB COPY

5. The main ground that was raised by the learned counsel for the petitioner is that the compensation that was fixed by the respondents was not on par with the compensation that was paid to the other beneficiaries in whose lands the towers were laid. To Substantiate the same, learned counsel brought to the notice of this Court Paragraph No.9 of the affidavit filed in support of the Writ Petition.

6. Per Contra, learned Standing Counsel appearing on behalf of respondent Nos.1 to 3 submitted that if the petitioner is not satisfied with the compensation paid, the petitioner has to work out his remedy only under Section 16 (3) of the Indian Telegraph Act, 1885 and that the Writ Petition cannot be maintained in this regard. Accordingly, the learned Standing Counsel, sought for dismissal of this writ petition.

7. In the considered view of this Court, the sufficiency or otherwise of the compensation that was paid by the Electricity Department cannot be gone into in this Writ Petition. The petitioner claims that higher compensation was paid to the other beneficiaries, whereas, the third



W.P.(MD)No.3045 of 2020

WEB COPY

respondent has stated in the impugned proceedings that the compensation was fixed equally for all the beneficiaries. In the instant case, the father of the petitioner was paid a sum of Rs.2,90,000/- (Rupees Two Lakhs and Ninety Thousand only) in the year 2016. He died in the year 2017 and according to the Electricity Department, the total compensation was fixed at Rs.3,90,000/- (Rupees Three Lakhs and Ninety Thousand only) and hence, the balance compensation amount was attempted to be paid to the petitioner by way of cheque. The issue that has been raised by the petitioner cannot be decided in the Writ Petition and it requires appreciation of facts and documents._ The Indian Telegraph Act, 1885 has specifically provided for a relief in case of payment of inadequate compensation. Under Section 16(3) of the Indian Telegraph Act, 1885, any person aggrieved by insufficient payment of compensation, can file an application for that purpose before the learned District Judge within whose jurisdiction the property is situated. The learned District Judge can always go into the claim made and decide the same based on the documents produced before the Court. In the light of such an efficacious remedy available to the petitioner, it will not be appropriate for this Court to deal with this issue in this Writ Petition.



W.P.(MD)No.3045 of 2020

WEB COPY

8. In the light of the above discussion, the relief sought for by the petitioner cannot be granted by this Court. However, liberty is granted to the petitioner to approach the appropriate District Court to work out the remedy under Section 16(3) of the Indian Telegraph Act, 1885. The petitioner shall file such application before the concerned Judge within a period of six (6) weeks from the date of receipt of a copy of this order and the concerned District Judge shall deal with the same, on its own merits and in accordance with law and pass final orders within a period of six (6) months thereafter.

9. This Writ Petition is disposed of with the above directions.

No costs.

03.10.2023

NCC:yes/no
Index:yes/no
Internet:yes/no

tsg



WEB COPY



W.P.(MD)No.3045 of 2020

N.ANAND VENKATESH, J.

tsg

W.P.(MD)No.3045 of 2020

03.10.2023