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W.P.(MD)No.2794 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2794 of 2023

and

W.M.P.(MD)No.2586 and 2589 of 2023

M.Sudalaimani

... Petitioner

Vs.

The Junior Engineer,
The Tamil Nadu Transmission Corporation,
253/1C K.V.U.P.MI.NI,
Chenbagaraman Pudur,
Kanyakumari District.

... Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned proceedings of the respondent in Letter No.E.Po./Mi.Pa/Se.Ra. Pudur/Koruni/A.No.24/2021 dated December 2021 and quash the same as illegal and consequently forbear the respondents from preventing the petitioner from developing his land in Survey No.1010/4B, Anjugraman village, Kanyakumari district.

For Petitioner : Mr.Mahaboob Athiff

For Respondent : Mr.S.Deena dhayalan

* * *



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ORDER

Heard the learned counsel on either side.

2.The petitioner had purchased the petition mentioned property in the year 2018. It is comprised in S.No.1010/4B, Anjugramam village, Kanyakumari District and measuring 35 cents. The petitioner now wants to put up a construction. The respondent had informed the petitioner that since a 110 KV High Tension transmission line runs above the petition mentioned land, the petitioner could not put up any construction. Challenging the said communication, the present writ petition has been filed.

2.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this petition and he called upon this Court to set aside the impugned communication and grant relief as prayed for.

3.The learned Standing counsel for the respondent submitted that the TANGEDCO follows certain norms regarding the standard



clearances and spacing for construction works. He referred to the following extract:

Sl.No.	Voltage	Vertical Clearances based on Max. Sag	Horizontal Clearance based on Max.Swing
1.	66 KV	13' (3.96 M)	7' (2.15 M)
2.	110 KV	15' (4.10 M)	9' (2.74 M)
3.	230 KV	18' (5.48 M)	12' (3.66 M)

He submitted that it would be unsafe to permit the petitioner to put up the construction in view of the running of 110 KV HT transmission line over the land. He called for the dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record. The legal force of the norms referred to by the learned Standing Counsel is not quite clear. Even in the impugned communication, there is reference only to Section 18(3) of the Indian Electricity Act, 1910. The Electricity Act, 2003 has repealed the Indian Electricity Act, 1910. The impugned communication will have to be set aside for the sole reason that it invokes the provisions of a repealed enactment. Even going by the norms referred by the learned standing counsel, it is clear that the petitioner will be able to put up a construction by adhering to the said safety principles.



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5. In this view of the matter, the communication impugned in this writ petition is set aside. The writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

23.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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To

The Junior Engineer,
The Tamil Nadu Transmission Corporation,
253/1C K.V.U.P.MI.NI,
Chenbagaraman Pudur,
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G.R.SWAMINATHAN,J.

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