



W.P(MD)No.3345 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3345 of 2023
and
W.M.P.(MD)Nos.3085 & 3086 of 2023

K.Murugesan

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Theni.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Chinnamanur,
Theni District.

3.The Assistant Executive Engineer (Distribution)
Tamil Nadu Electricity Board,
Uthamapalayam,
Theni District.

4.The Assistant Engineer (Distribution)
Tamil Nadu Electricity Board,
Kombai,
Theni District.

5.P.M.Dharmar

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent dated 07.01.2023 and to quash the same and directing the respondents 1 to 4 not to lay electricity connection through the petitioner's agriculture land situated in Pannaipuram Village, Uthamapalayam Taluk, Theni District.

For Petitioner : Mr.Mohammed Athiff
for Mr.V.M.Jegadeeshpandian
For Respondents : Mr.S.Deenadhayalan
Standing Counsel for R1 to R4
: Mr.K.Jeyamohan for R5

ORDER

Heard the learned counsel on either side.

2. The 5th respondent herein is having lands behind the lands owned by the writ petitioner. The 5th respondent wanted electricity service connection for them. He wanted free electricity service connection for his lands. The writ petitioner herein raised objections. He also filed O.S.No.16 of 2008 before the District Munsif Court, Uthamapalayam. On account of the stand taken by the writ petitioner, TANGEDCO did not provide electricity service connection sought for by the 5th respondent herein. The 5th respondent herein filed W.P.No.634 of



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2008. The writ petition was disposed of in favour of the fifth respondent on 26.09.2008. Pursuant to the said direction, the TANGEDCO laid lines and the 5th respondent has been enjoying the same ever since. Subsequently, O.S.No.16 of 2008 filed by the petitioner was also withdrawn. Now, the 5th respondent wanted to convert the single phase line into three phase line. With that prayer, he filed W.P.(MD)No.17779 of 2022. The writ petition was allowed by me on 08.08.2022, since the learned standing counsel made a statement that the 5th respondent's request had already been accepted. Only thereafter it turned out that the writ petitioner herein continued to maintain his objections. The petitioner filed W.P.(MD)No.27351 of 2022. The writ petition was disposed of by directing the authorities to decide the petitioner's objections. The petitioner's objections were rejected vide order dated 07.01.2023 by the Assistant Executive Engineer, Uthamapalayam. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and forbear the authorities from laying any electricity connection through his lands.



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4. Before considering the petitioner's counsel's contentions on merits, I called upon the fifth respondent to consider making an offer to compensate the petitioner herein. This is because, whenever objections of this nature are raised, the matter is invariably taken up by the District Collector under Section 16 of the Telegraph Act. One can take judicial notice of the fact that usually, the orders are passed for laying the pipelines subject to the following conditions:-

(I) The injured party is compensated.

(II) The authority is directed to cause as little damage as possible while laying the electricity lines.

I felt that instead of relegating the parties to go before the District Collector, the 5th respondent himself can make a reasonable offer. The 5th respondent graciously came forward to make payment of sum of Rs.20,000/-. This in my view should more than allay the concerns expressed by the petitioner through his counsel. Recording the undertaking of the fifth respondent, the fifth respondent is directed to take demand draft favouring the petitioner and send the same through RPAD to the petitioner.



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5. I am hopeful that the petitioner will accept the payment made by the 5th respondent pursuant to the direction given by this court. The fifth respondent is not giving dole to the petitioner. The 5th respondent is seeking to draw line across the lands of the writ petitioner. In fact, such a direction could have been issued while disposing of W.P.(MD)No.634 of 2008. What was omitted to be done then is sought to be given now. In the event of the petitioner not accepting the compensation, the 5th respondent shall deposit the same to the credit of this writ petition. The 5th respondent shall comply with the usual formalities. The right of the 5th respondent has been already acknowledged by this Court in W.P. (MD)No.17779 of 2022 on 08.08.2022. I am only confirming the said direction already given in favour of the 5th respondent. But then, the 5th respondent failed to implead the petitioner in the said writ petition. The 5th respondent being a practising lawyer ought to have impleaded the writ petitioner in W.P.(MD)No.17779 of 2022. In fact, impleading the writ petitioner in W.P.(MD)No.17779 of 2022 would not have made a difference to the eventual outcome. The 5th respondent is already enjoying electricity connection. What is now sought is only conversion of single phase into three phase. More than anything else, the writ



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petitioner herein had withdrawn the civil suit filed by him. Now, he is precluded from filing another suit for forbearing the authorities from granting electricity connection to the fifth respondent. Thus, for more than one reason, the request for conversion of single phase line into three phase line cannot be negated. The impugned order rejecting the petitioner's objection is well founded. This does not call for interference in view of the reasons set out above. R1 to R4 shall cause as little damage as possible, while laying the electricity lines. The standing trees shall not be cut. On the strength of the order made in W.P.(MD)No.634 of 2008, the 5th respondent herein has succeeded in this round of litigation. I make it clear that this shall not lay foundation for making any future claim by the fifth respondent herein. 6. The Writ Petition is dismissed with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

26.06.2023

NCC : Yes/No
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