

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.4859 of 2020

and

W.M.P.(MD) Nos.4236 and 4239 of 2020

1.Sivaramakrishnan

2.Baskaran

3.Sekar

4.S.Kasthuri

5.R.Panneerselvam

.. Petitioners

Vs.

1.The Chairman cum Managing Director,
Tamilnadu Electricity Board,
No.144, Anna Salai,
Electricity Avenue, Chennai-600 002.

2.The Director,
TANTRANSCO,
No.144, Anna Salai,
Electricity Avenue,
Chennai-600 002.

3.The District Collector,
Thanjavur.

4.The Superintending Engineer
(General Construction Circle),
Tower Line Construction,
TNEB, Theenur Circle,
Manarpuram, Trichy.

5.The Executive Engineer,
Tower Line Construction,
TNEB, Opposite to Tamil University,
Vallam Road, Thanjavur.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondents to erect and draw the electricity pole and line in and above the petitioner's lands and service connection to the petitioner's patta lands situated in S.F.Nos.244/2A, 256/1A, 256/2, 239, 241/3C, 241/3D, 242/1B, 243 and 244/1C of Soorakottai Village, Thanjavur Taluk and District against law.

For Petitioner : Mr.P.Ganapathi Subramanian

For RR1 to 3 : Mr.D.Ghandiraj
Special Government Pleader

For RR4 & 5 : Mr.S.Deenadhalayan
Standing Counsel

ORDER

The petitioners seek a mandamus to the respondents to forbear them from erecting electricity pole and drawing electricity line over the

petitioners' lands situated in S.F.Nos.244/2A, 256/1A, 256/2, 239, 241/3C, 241/3D, 242/1B, 243 and 244/1C of Soorakottai Village, Thanjavur.

2. The facts set out in the affidavit filed in support of the writ petition would indicate that the petitioners were aggrieved by the respondents' attempts to erect electricity poles and drawing electricity lines over the petitioners' patta lands. In fact, the petitioners had originally moved this Court in W.P.(MD) No.3280 of 2017 and by order dated 24.02.2017, this Court had directed the District Collector to explore the availability of alternate site and take a decision within a period of eight weeks. This order was challenged by the respondents by filing W.A.(MD) No.889 of 2017 and a Division Bench of this Court, by its judgment dated 30.08.2017, allowed the appeal holding that the District Collector did not have jurisdiction to change the alignment. This judgment was challenged by the petitioners before the Hon'ble Supreme Court and by its order dated 15.12.2017, the Hon'ble Supreme Court had directed the District Collector to look into the matter and pass

appropriate orders. On 09.02.2020, by his proceedings in Na.Ka.Ne.Seer.No.2/9308/2017, the District Collector has rejected the request of the petitioners by simply accepting the report submitted by the fifth respondent that it was not feasible to realign the drawing of the electrical lines. The third respondent has not independently considered the objections and has mechanically accepted the statement of the fifth respondent. Aggrieved by the same, the petitioners have filed the instant writ petition.

3. Heard the learned counsel for the petitioners, the learned Special Government Pleader for the Government and the learned Standing Counsel for the Board.

4. A perusal of the order dated 09.02.2020 would clearly show that the third respondent has simply restated the objection made by the fifth respondent, without independently analysing the objection submitted by the petitioners. Therefore, this Court, without commenting on the merits of the order, taking into account the non-application of mind and the fact

that it is a non-speaking order, remits the matter back to the District Collector, Thanjavur to consider the representation of the petitioners afresh, after affording them an opportunity of personal hearing and pass a detailed speaking order within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

17.03.2023

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

abr

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