



W.P(MD)No.5670 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5670 of 2023

and

W.M.P(MD)Nos.5272, 5274 & 5276 of 2023

J.Thangaselvi

... Petitioner

Vs.

1.The Chairman

Tamil Nadu Electricity Board Limited,
Anna Salai,
Chennai - 600 002.

2.The District Collector

Collectorate,
Korampallam,
Thoothukudi.



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3.The President and Chief Executive Officer,
Udangudi Power Corporation Ltd.,
TNEB Complex,
No.144 Anna Salai,
Chennai - 600 002.

4.The Superintending Engineer
General Construction Circle,
TANTRANSCO,
K.Pudur,
Madurai - 625 007.

5.The Superintending Engineer / Civil,
Udangudi High Density Power Project - I,
Udangudi, - 628 206,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records and to quash the proceedings vide Moo.Mu.(C5)/328719/2022 dated 01.03.2023 passed by the second respondent and further direct the respondents to lay the High Volt Power line by leaving petitioner agriculture land in Thoothukudi District, Manadu Thandapathu Village,



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Survey Nos.797 and 798 by following section 10 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement (Compensation Rehabilitation and Resettlement and Development Plan) Act, 2013.

For Petitioner : Mr.V.Rajiv Rufus

For Respondents : Mr.S.Deenadhayalan - for R1, R3 to R5
Standing Counsel
Mr.N.Muthu Vijayan - for R2
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to proceedings in Moo.Mu.(C5)/328719/2022 dated 01.03.2023 passed by the second respondent/District Collector, Thoothukudi and to further direct the respondents to lay the high voltage power line by leaving out the lands of the petitioner at Survey Nos.797 and 798 at Manadu Thandapathu Village, Thoothukudi District, and to follow Section 10 of the Right to



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Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

2. In the affidavit filed in support of the Writ Petition, it had been stated by the petitioner that her husband and his brother had 10.5 acres of land in Survey Nos.797 and 798 at Manadu Thandapathu Village, Thoothukudi District. After partition, the husband of the petitioner got his share and also obtained patta No.2039. It had been claimed that cultivating is on going in the said lands with the growth of palm trees, coconut trees and other crops. The husband of the petitioner died on 17.02.2014. It is stated that the land is the only source of income. The Respondents 3 to 5, TANGEDCO had proposal to install a power tower and power lines and those lines were also to go over the lands of the petitioner herein. Consequent to that, the lands of the petitioner had been entered into for acquisition proceedings. It had been stated that earlier the petitioner had filed W.P.(MD)No.23544 of 2022 seeking a direction to consider a representation, dated 19.09.2022. A learned Single Judge of this Court has also granted that particular order. But claiming that the power line should not go over the agricultural lands



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of the petitioner, since it is the only source of income for the petitioner and more particularly, also claiming that just adjacent there is barren land available through which the electric line could be taken with a slight adjustment in the alignment, the Writ Petition had been filed in the nature of Certiorari.

3. The impugned order is dated 01.03.2023 and in the impugned order, it had been very specifically stated that the line will have to be drawn in a straight line alignment and for that purpose the lands of the petitioner are required. It had been stated that it would not be possible to change the alignment at this stage. It had also been stated that under Section 16 of the Indian Telegraph Act, 1885, if the petitioner had any grievance about the compensation determined, she can file a regular appeal before the jurisdictional District Court, in this case the Principal District Court at Thoothukudi.

4. It has been stated that second respondent/ District Collector has every right under law to Section 10 of the said Act, to enter upon and acquire the lands for public purposes.



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5. In view of all these reasons, the impugned order came to be passed, directing compensation to be paid to the petitioner and refusing to accede to the representation not to acquire the lands of the petitioner herein.

6. A Counter affidavit had been filed by the second respondent / District Collector, Thoothukudi, in which, he stated that the Commissioner of Land Administration, had approved and formed a special team for acquiring 605.73.5 hectares of land for extending Udangudi Super Critical Thermal Power Plant Stage II and III vide G.O. (Ms).No.11 dated 23.02.2022. It had been stated that the project had commenced by obtaining loan and there was an obligation to complete the project by April, 2023.

7. It has pointed out by the learned Standing Counsel that the project had already been delayed by filing of this Writ Petition. It had also been stated that the entire line had been drawn and only the lands of the petitioner alone will have to be acquired. It had also been stated that the second respondent had also granted enter upon order by fixing land



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compensation based on the Government Order and tree compensation and had determined the compensation at Rs.25,58,000/- (Rupees Twenty Five Lakhs Fifty Eight Thousand only). The District Collector had very specifically stated that the line route cannot be changed / deviated owing to the objection of one land owner.

8. The fourth respondent had also filed a counter affidavit wherein, again the same facts had been stated about the right to enter upon the land and acquire the land. It had also been stated that due to technical reasons, it is not feasible to alter the route as it would cause huge loss to TANTRANSCO.

9. It had been stated that under Section 10 of the Act, the alignment route has been finalized by a technical expert by taking into consideration various factors and keeping the damages to the minimum.

10. It had also been stated that the total length of alignment measuring 70.730 kilo meters had been mapped and therefore, it would not be possible of realignment. Even a slight change in the positioning



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of the tower will have a chain reaction throughout the entire stretch of 70.730 kms.

11. It had been stated that enter upon notice had been issued by the District Collector and the compensation had also been determined to be paid to the petitioner herein.

12. Heard, the learned counsel for the petitioner, the learned Special Government Pleader for the second respondent and also the learned Standing Counsel for the respondents 1, 3 and 5.

13. It is the contention of the learned counsel for the petitioner that even in the impugned order, it had been observed that under 2013 Act, there are stipulations given that to the extent possible agricultural land should not be acquired and if there is an alternate land next to it or adjacent to it, then the poles can be erected in that particular alternate land. It had been stated that in the instant case, the petitioner had stated that in Survey No.796, there is assessed land and the owner of that land is Vivekanandan son of Alaguvel Nadar, who had also granted



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permission for using that land for drawing of the line. But, finally the District Collector, in his order had stated that realignment of the line is not possible.

14. The learned counsel for the petitioner has also placed reliance on a notification of the Central Government issued on 12.05.2016, wherein, the Central Government had notified that under the provisions of the Act, the area of irrigating multi cropped land to be acquired for all projects in aggregate during five years in the District should not exceed one percent of the total irrigated multi cropped land determined for the relevant block for five years.

15. In effect, it is the contention of the learned counsel for the petitioner that within a short span of time, three major projects had been initiated and therefore, substantial land had been acquired and there had been no clarification issued whether a larger area of agricultural land had been acquired even though there is a restriction placed by the aforementioned notification.



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16. The learned Special Government Pleader however, pointed out that the fact that the compensation had been determined for the petitioner and a sum of Rs.28,58,000/- (Rupees Twenty Eight Lakhs Fifty Eight Thousand only) had been determined after taking into consideration all factors. It had also been pointed out that the District Collector, had affirmed that the line route cannot be changed or deviated for one land owner. It had also been stated that the deviation will cause huge loss to TANTRANSCO.

17. The learned Special Government Pleader stated that the entire project had been practically completed and it is only the land of the petitioner which obstructs completion of the project. It had been therefore, contended that the Writ Petition should be dismissed.

18. The learned counsel for the petitioner placed reliance on the order of a learned Single Judge of this Court in *W.P(MD)No.3363 of 2023, S.Jeyakani Vs. The District Collector, Thoothukud and Others*. The learned Single Judge by an order, dated 21.02.2023, had set aside the order impugned therein and had remitted the matter back to the first



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respondent and had directed the first respondent to conduct site inspection in the presence of the petitioner therein and then to pass final orders under Section 16 of the Telegraph Act. It is contended that the said Writ Petition had been filed by an adjacent land owner.

19. The learned Standing Counsel for TANTRANSCO pointed out the statements made in the counter affidavit and stated that deviation of the route is not possible. With respect to the order aforementioned, the learned counsel stated that in that particular case the number of trees which had been calculated had been wrongly calculated and it was for that purpose, the impugned order therein had been set aside and the matter had been remitted back to the District Collector, for fresh appreciation of facts.

20. I have given my careful consideration to the arguments advanced and perused the records.

21. The lands of the petitioner, have been sought to be acquired by the respondents for putting up a substantial project in public



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interest. This project involves putting up and setting up electric poles and for that purpose land has to be acquired. The case of the petitioner is that adjacent to the lands of the petitioner, there is barren land and a slight realignment can be done by the respondents, by which, the lands of the petitioner would not come to be acquired.

22. It had been contended that the petitioner is a widow and the only source of land is from the crops grown on the land and therefore, the respondent must once again reconsider the decision to draw the line across the lands of the petitioner herein. However, to this assertion, it is the contention of the respondents that even a slight deviation would cause a ripple effect and throughout the entire length through which the line will have to be drawn, there has got to be realignment made. It was very categorically stated that realignment is not possible. It was also stated that compensation had been determined, and if the petitioner has any grievances over the compensation then the petitioner can approach the District Court, under Section 10 of the said Act. It had also been stated that all factors had been taken into consideration and only thereafter, the lands were acquired.



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23. It is clear that the petitioner will have to necessarily make way by giving up her lands for public purpose. The petitioner cannot obstruct the acquisition of the lands. The reason given by the petitioner that there is an alternate land available, cannot be taken into consideration because as stated, if there is a slight deviation then for the entire area the line will have to be redrawn and realignment will have to be made. The costs involved would for exceed the compensation which to be paid to the petitioner herein.

24. Quite apart from that particular fact, the order of the learned Single Judge in S.Jeyakani, aforementioned, remitting the order back to the District Collector, was according to the learned Counsel for the respondent, only because the number of trees which stood in that particular land had not been properly calculated.

25. Here the petitioner has not raised that particular ground. It is only stated that there is an alternate way and the respondents could very well have used that particular land, particularly, when that land



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owner Vivekanandan, son of Alagumani Nadar, had not raised objections for land acquisition.

26. But as repeatedly pointed out, realignment is not possible. The compensation which could be paid for acquisition of the lands had been determined. The petitioner can always file an appeal before the District Court, under Section 16 of the Act, as provided.

27. With respect to the Central Government Notification, the particular statistics are not available and this Court cannot come to any conclusion that substantial lands have been acquired for major projects.

28. The issue is one of private interest *vis-a-vis* public interest and public interest alone will have to be taken into consideration. All the other land owners had accepted to the acquisition. It is the land of the petitioner alone which now obstructs and has put a halt to the on-going project.



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29. In view of these reasons, unfortunately, I am not able to agree with the contentions raised by the learned counsel for the petitioner herein. I would urge the learned counsel to take up the issue before the District Court, and endeavour to seek further compensation to the petitioner herein.

30. Recording as above, the Writ Petition stands dismissed.
No costs. consequently, connected miscellaneous petitions are closed.

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

RM



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C.V.KARTHIKEYAN, J.

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