



W.P.(MD)No.17458 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.17458 of 2021

P.Kuppusamy

... Petitioner

-VS-

1.The Superintending Engineer,
TANGEDCO, Maharajan Nagar, Palayamkottai,
Tirunelveli District.

2.The Assistant Engineer,
TANGEDCO, Distribution Urban,
Tirunelveli Junction, Tirunelveli District.

3.The Junior Engineer,
Office of the Junior Engineer,
Distribution Urban, TANGEDCO,
Kokirakulam, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the transformer fixed in the 4th cross street of South Balabackiya Nagar, Tirunelveli, to any other place without hindrance to the petitioner, within the time fixed by this Court.



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For Petitioner : Mr.N.Tamilmani

For Respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to remove the transformer that has been erected very adjacent to the property belonging to the petitioner.

2. The case of the petitioner is that he is the owner of the subject property. When the petitioner was not present in his house, an electric transformer was erected adjacent to the compound wall of the house belonging to the petitioner. In view of the same, the petitioner complains that the transformer virtually projects into his house and thereby, it is affecting the peaceful possession and enjoyment of the property belonging to him. The petitioner made representations in this regard and since the same did not yield any result, the present Writ Petition has been filed before this Court.



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3. The third respondent filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:-

"3. I humbly submit that the fact of the case is that the petitioner objected to erect transformer adjacent to his house. The petitioner had given written request on 27.07.2021 and the same was replied by me through registered post on 23.08.2021. The petitioner apprehend that the fire bubbles exposed from the transformer. It will cause fire accident of petitioner dwelling house. All wires were proper laing, insulated and followed safety norms as enumerated in the TNEB Regulation.

4. I respectfully submit that the existing LT lines were pass adjacent to the petitioner's land there is 2 feet distance is available from his compound wall. The proposed transformer erected for the benefit of general public including the present petitioner also. The transformer supplied power to South Street. The existing transformer capacity is exceeded hence this transformer is proposal accepted and erected by the TANGEDCO at capital fund. The width of the road is 23 feet and the transformer erected at the edge of the corner portion of the "South Street".

5. I respectfully submit that as per regulation 5 (6) of Tamil Nadu Electricity Supply Code 2004 stipulates that shifting charges shall be borne by the consumer. It is technically not feasible to shift."



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4. Heard the learned counsel appearing on behalf of the petitioner and the learned Standing Counsel appearing on behalf of the respondents.

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. The main grievance that has been expressed by the petitioner is that the transformer was laid very near to the compound wall of the house and the iron angles is virtually at an arms length from the first floor. Therefore, the petitioner is fearing that if in case of any short circuit or any sparks of fire that emanates from the transformer, the house of the petitioner is in peril and the occupants of the house are in danger.

7. This Court had the opportunity to look into the Photographs that were produced and it is seen that the transformer is very adjacent to the compound wall and the iron angles virtually projects into the property of the petitioner. This Court finds that the manner in which the transformer has



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been placed, clearly poses danger both to the property as well as to the occupants of the property. Therefore, the transformer has to be necessarily shifted to some other safer place.

8. The learned counsel for the petitioner submitted that the third respondent was insisting for the payment of cost for shifting of the transformer. In the considered view of this Court, the petitioner cannot be made to pay any cost, since the transformer was erected in a hasty manner, when the petitioner was not present in the house. Therefore, the respondents cannot insist that the petitioner must pay the cost for shifting of the transformer.

9. In the light of the above discussion, there shall be a direction to the third respondent to take immediate steps to find an alternate place and shift the transformer from the existing place. This exercise shall be completed by the third respondent within a period of three months from the date of receipt of a copy of this order.



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10. This Writ Petition is disposed of with the above direction. No costs.

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NCC : Yes/No
Index : Yes/No
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To

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N.ANAND VENKATESH, J.

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