



W.P(MD)No.22946 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.22946 of 2022

and

W.M.P(MD)No.17050 of 2022

B.Arichandran

... Petitioner

Vs.

1.The District Collector

District Collectorate,
Tirunelveli District.

2.The Executive Engineer

TANGEDCO,
Tamilnadu Electricity Board,
Tirunelveli.

3.Kanyakumari Wind Form,

Rep. by its Proprietor,
M.K.Jain,
Having Office at No. 53, Friends Colony (East),
New Delhi - 110 065.



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4.Rajendran

Manager,

Poysha, Power Generation Pvt. Ltd.,

Azhaganeri,

Radhapuram,

Tirunelveli District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to remove the electric cable laid down by the fourth respondent in the common pathway based on the representation, dated 11.08.2022.

For Petitioner : Mr.G.Sailendra Babu

For Respondents : Mr.J.Ashok - for R1

Additional Government Pleader

Mr.S.Deenadhayalan - for R2

Standing Counsel

Mr.Raguvaran Gopalan - for R3 & R4



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executed in favour of Navamani but that is an issue which cannot be either examined or even being spoken about by this Court, since it is not an issue raised.

3. The fact is that the petitioner and the third respondent are joint owners of the particular common pathway which runs for 10 feet. The Wind Mill naturally requires cable connection. Cable had been drawn originally at a depth of 4 feet under the common pathway. At the initial stage, there has been no objection raised by the petitioner or by anybody else. Thereafter, as time passed, there was a necessity to maintain and examine whether the cable which had been laid underground is proper and requires to be re-laid. At that particular point of time the petitioner appears to have raised objections and had given a representation dated 11.08.2022.

4. Heard Mr.G.Sailendra Babu, learned counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for the first respondent, Mr.S.Deenadhayalan, learned Standing counsel for the



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second respondent and Mr.Raguvaran Gopalan, learned counsel for the respondents 3 and 4.

5. It is a fact that the petitioner and the third respondent are joint owners as on date of the common pathway. They both have a right to use. When they both have a right to use, they also have a right to expect that it is used in a manner which does not cause obstruction or causes danger to the other person. The petitioner raises an apprehension that if the cable is re-laid or if a new cable is put under the new pathway, it would not or may not be put at sufficient depth and the pathway would not or may not be properly re-laid. These are apprehensions in the minds of the petitioner and it is only natural that such apprehensions surface. The third respondent has an obligation to examine whether the existing cable requires to be examined for any defects.

6. A direction is given that the third respondent can re-lay the cable under the common pathway, but at a depth of atleast 4 feet. After laying the cable at a depth of 4 feet the pathway should be properly



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re-laid. It must be kept in mind that the pathway is not a public pathway, but the pathway for exclusive use of the petitioner and third respondent herein. Therefore, the third respondent must re-lay the pathway so that the petitioner's use is not obstructed or is put to any danger. This laying of the cable may be supervised by a responsible official of the second respondent and after the pathway is re-laid, the first respondent may also depute any responsible officer to ensure that the pathway is properly closed.

7. No further directions are required and I hope that the petitioner and the third respondent continue to retain usage and interest in the common pathway failing which, if third party interests intervene, the common pathway would become common to the general public and not exclusive to the petitioner and the third respondent. Let that larger interest be kept in mind and this interest of cable at the back of the mind. The third respondent may also lay any cable, but at any rate, at the depth of 4 feet and after that the pathway must be re-laid properly.



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8. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19.04.2023

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

RM

To

1.The District Collector
District Collectorate,
Tirunelveli District.



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C.V.KARTHIKEYAN, J.

RM

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