



W.P.No.7550 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7550 of 2022

M.Periasamy

... Petitioner

Vs.

1. The Government of Tamilnadu,
Rep.by its Principal Secretary,
Energy Department,
Fort St.George,
Chennai - 600 009.
2. The Chairman,
Tamilnadu Transmission Corporation Limited,
NPKRR Maaligai,
No.144, Annasalai,
Chennai - 600 002.
3. The District Collector,
Salem District,
Salem.
4. The Superintending Engineer GCC/Salem
TANTRANSCO
General Construction Circle/Salem,
Kamaraj Nagar Colony
Athur Bypass,
Salem -14
Salem District.



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5. The Executive Engineer GCC/Salem,
TANTRANSCO
General Construction Circle /Salem,
Kamaraj Nagar Colony,
Athur Bypass,
Salem -14,
Salem District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings of the 5th respondent, in his office ref.Ka.No.Se.Po/Mi.Tho.Ka/Se/Varaivu/Ko.Manu/No/2019 dated 12.06.2019 quash the same and direct the respondents to fix and pay fair compensation for the petitioner's land measuring 1.04 1/2 acres comprised in S.No.316/3C, Kurinchi Village, Vazhapadi Taluk, Salem District and borewell as per G.O.Ms.No.63 Energy (A1) department dated 22.11.2017 and as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 and further pay higher compensation for the coconut trees and turmeric crop within the time that may be fixed by this Hon'ble Court.

For Petitioner : Mr.P.Mani

For Respondents 1 & 3 : Mr.P.Sanjay Gandhi
Government Advocate

For Respondents 2, 4 & 5 : Mr.D.R.Arun Kumar
Senior Counsel



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ORDER

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This writ petition has been filed challenging the order passed by the 5th respondent dated 12.06.2019 thereby rejected the claim made by the petitioner by way of compensation for his land which was acquired for the project of construction of 110KV Extra High Tension transmission line.

2. The petitioner is owned agricultural land ad-measuring 1.04 1/2 acres comprised in S.No.316/3C situated at Polur Kurichi Villlage, Valapadi Taluk, Salem District. While being so, the 2nd respondent issued notification under the Electricity Act, 2003, for the construction of 110KV Extra High Tension transmission line for a route length of 13 kms passing through Belur and the nearby villages. The said electricity line was proposed to draw through the petitioner's land. That apart, the electric line had been drawn overhead high voltage transmission line and erecting a transmission tower. Due to which the respondents cut down 147 coconut trees aged about 18 years and also destroyed the turmeric plants cultivated in the said land. Though, the petitioner paid compensation for his cocount trees and turmeric field. He was not paid any compensation for his land. Therefore, the petitioner seeking compensation for his agricultural land. However, it was rejected on the



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ground that as per the G.O.Ms.No.63, Energy (A1) Department, dated 22.11.2017. In which the adoption of Government of India, Ministry of Power guidelines for payment of compensation towards damages in regard to Right of way for transmission lines covering 110KV & 230Kv lines and above subject to the condition that if it will be applicable only to new projects with prospective effect. Whereas, the petitioner's land was already used for erecting power and had drawn high tension wires over and above the petitioner's land even before 22.11.2017. Therefore, the petitioner is not entitle for any compensation for his land.

3. The learned counsel for the petitioner would submit that similarly placed land owners had filed writ petitions before this Court. This court directed to consider the request made by the petitioners and determine the compensation for their respective land within a period of twelve weeks. Accordingly, the 3rd respondent consider the claim and awarded compensation for their respective lands. However, the petitioner's request was rejected which is violation of Article 14 of Constitution of India.



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4. The learned counsel for the Respondents 2, 4 and 5 filed counter and submitted that through the petitioner's land High Tension wire has already drawn even before the date of Government Order in G.O.Ms.No.63 dated 22.11.2017. Therefore, the petitioner is not entitle for compensation for his land. Insofar as similarly placed persons are concerned their land were utilized for erection of tower only during the year 2019. Therefore, they are entitled for compensation. He further submitted that the stringing for the pending portion of 4.2km could not be completed till 2019 even after three years from the back charging of SS during 11/2015 due to prolonged pending finalization of enter upon orders by the 3rd respondent. He further submitted that case of writ petitions filed by the land owners is that project was not completed for the distance of 4.2Kms. Therefore, the said land were utilized for erection of tower of drawing High Tension wire only after issuance of G.O.Ms.No.63 dated 22.11.2017. As per the G.O.Ms.No.63 which was came into effect with prospective effect. Therefore, other land owners were considered and fair compensation for their land is given as per the government order whereas the petitioners land is concerned it was already utilized for erection of tower had drawn high tension line. Therefore, the 3rd respondent rightly rejected the claim made by the petitioner.



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5. On perusal of the records revealed that by an order dated 17.02.2019, the 3rd respondent ordered to pay compensation for their land which were utilized for erection of electricity tower and for drawing high tension line under the very same project i.e., 110KV Extra High Tension transmission line. The said order passed in pursuant to the direction issued by this Court in W.P.Nos.2681 of 2016, W.P.No.17055 of 2016 and W.P.No.16477 of 2016 by an order dated 27.01.2016, 01.06.2016 & 29.04.2016 respectively. Those orders were passed even before passing government order in G.O.Ms.No.63 dated 22.11.2017. As per the direction issued by this Court, the 3rd respondent conducted detailed enquiry and awarded compensation for the land owners for their respective lands. That apart, the government order has been passed by the State Government of Tamilnadu in pursuant to the guidelines issued by the Government of India, Ministry of Power dated 15.10.2015. On perusal of the guidelines and the relevant portion of the guidelines extracted hereunder:

"2. The Recommendations made by the committee are hereby formulated in the form of following guidelines for determining the compensation towards "damages" as stipulated in section 67 and 68 of the Electricity Act, 2003 read with Section 10 and 16 of Indian Telegraph Act, 1885 which will be in addition to the compensation towards normal crop and tree damages. This amount will be payable



only for transmission lines supported by a tower base of 66 KV and above, and not for sub-transmission and distribution lines below 66KV:-

(i) Compensation @ 85% of land value as determined by District Magistrate or any other authority based on Circle rate/Guideline Value/Stamp Act rates for tower base area (between four legs) impacted severely due to installation of tower/pylon structure;

(ii) Compensation towards diminution of land value in the width of Right of way (RoW) Corridor due to laying of transmission line and imposing certain restriction would be decided by the States as per categorization/type of land in different places of states, subject to a maximum of 15% of land value as determined based on Circle rate/Guideline value/Stamp Act rates;

(iii) In areas where land owner/owners have been offered accepted alternate mode of compensation by concerned corporation/Municipality under Transfer Development Rights (TDR) policy of State, the licensee/Utility shall deposit compensation amount as per (i) & (ii) above with the concerned Corporation/Municipality/Local Body or the State Government.

(iv) For this purpose, the width of RoW corridor shall not be more than that prescribed in the table at Annex-2 and shall not be less than the width directly below the conductors."



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6. As per the said guidelines, the government of Tamilnadu had passed Government order in G.O.Ms.No.63, Energy (A1) Department, dated 22.11.2017. Though, the Government Order to pay the compensation for the land subject to the condition that the land compensation is applicable only to new projects with prospective effect. However, the 3rd respondent considered for the old project for the year 2014-2015 and granted compensation for the land. However, the petitioner's request was rejected by quoting the government order dated 22.11.2017. Therefore, it clearly violates Article 14 of the Constitution of India. Further, though the petitioner already filed writ petition seeking enhancement of compensation for the turmeric field and the same was dismissed by this Court and directed the petitioner to approach Civil Court for enhancement of compensation. The present writ petition is maintainable since he is challenging the rejection of the request made by the petitioner for seeking compensation for his land. If the petitioner is sought for any enhancement of compensation, the petitioner approach the District Court for enhancement of compensation. Therefore, the primary objection made by the respondents with regard to maintainability of writ petition cannot be accepted and the writ petition is very much maintainable. The petitioner



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challenging the rejection of request made by the petitioner for seeking compensation for his land, which was utilized for erection of tower by the respondents.

7. In view of the above, the respondents 2, 4 and 5 are directed to fix the compensation as per the Government Order in G.O.Ms.No.63, Energy (A1) Department, dated 22.11.2017 for the petitioner's land ad-measuring 1.04 1/2 acres comprised in S.No.316/3C situated at Polur Kurichi Villlage, Valapadi Taluk, Salem District and disburse the same within a period of twelve weeks from the date of receipt of copy of this order.

8. In view of the above, the impugned order passed by the 5th respondent dated 12.06.2019 cannot be sustained and liable to be quashed. Accordingly, the impugned order passed by the 5th respondent dated 12.06.2019 is quashed. Hence, this writ petition is allowed. No costs.

02.04.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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