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W.P.No.13024 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13024 of 2021

and

W.M.P.Nos.13832 and 24575 of 2021 and 2417 of 2024

P.S.Kannan

... Petitioner

Vs

1. The District Collector,
Salem District Collectorate,
Salem – 636 001.
 2. The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai – 600 002.
 3. The Superintending Engineer,
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Generation and Distribution Corporation,
Salem – 636 014.
 4. The Executive Engineer (West),
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Generation and Distribution Corporation,
Salem – 636 002.
- ... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to forbear the fourth respondent from erecting the Electricity Transmission Tower in the petitioner's patta land in Survey Nos.91/3, 91/3 D (part), 91/5 in the Kandampatty Village, Salem Taluk, Suramangalam Sub-Registration District, Salem West Registration Taluk in an extent of 5.53 Acres without complying the procedure established under Section 68(1) of the Indian Electricity Act, 2003 and the works of Licensees Rules, 2006.

For Petitioner : Mr.Kingsly Solomon. J

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader (for R1)

Mr.D.R.Arun Kumar (for R2 to R4)

O R D E R

The Writ Petition has been filed to forbear the fourth respondent from erecting the Electricity Transmission Tower in the petitioner's patta land comprised in Survey Nos.91/3, 91/3 D (part), 91/5, of an extent of 5.53 Acres, situated at Kandampatty Village, Salem Taluk, Suramangalam Sub-Registration District, Salem West Registration Taluk (hereinafter referred to as 'the subject land' for short).



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2. The petitioner owned the subject land by way of registered sale deed, dated 11.04.2014. While that being so, the respondents without serving notice on the petitioner, attempted to erect HTL Line Transmission in the subject land. The petitioner has been using the subject land by cultivating nanjai crops. Therefore, the only ground raised by the petitioner is that no notice was served by the respondents and they had attempted to erect the HTL Line Transmission.

3. The second to fourth respondents have filed counter-affidavit, it reveals that the respondents had followed the procedures and so far erected 22 Nos of tower foundation. As far as the petitioner is concerned, so far no objections were raised when the publication was made for erecting the HTL Line Transmission. After publication, no one objected for the foundation works. In view of the approval in terms of Section 164 of the Tamil Nadu Electricity Act, 2003 (hereinafter referred to as 'the Act' for short), no notice or consent of the owners/occupier of any land is required for erection of towers. Further, as per G.O.(Ma).No.16, Energy (C.3) Department, dated 23.02.2012, the State Government has conferred power upon the Licensee,



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under the Telegraph Act, 1885 by placing electricity lines or electrical plant for the Transmission of Electricity or for the purpose of telephonic or telegraphic communications and to have necessary and proper co-ordination of works. The approval of the State Government in terms of Section 164 of the Act for erection of towers, is sufficient and valid.

4. It is also relevant to extract Section 10 of the Act falling under Part-III, which reads as follows:-

“10. Power for telegraph authority to place and maintain telegraph lines and posts.—The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property: Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph establish Ector maintained by the 1 [Central Government], or to be so established or maintained;



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(b) the 1 [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post;

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.”

5. Further, it is also technically not feasible to change the location of the tower except to draw from the petitioner's land. In fact, as already foundation of tower has been completed, to proceed further works, such as



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tower erection and stringing of line, the District Collector/Magistrate has been approached for entering upon the order dated 04.08.2021 to complete the line as per Section 10 and Section 16(1) of the Indian Telegraph Act, 1885 and Section 164 of the Act. That apart, if any trees or crops damaged during the drawing of the electricity line, the petitioner is entitled for compensation in accordance with law. Therefore, the Writ Petition is devoid of merits and it is liable to be dismissed.

6. In fine, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

15.04.2024

Index:Yes/No
Neutral Citation/Yes/No
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