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W.A.Nos.1435 & 1458 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.1435 & 1458 of 2022
and
C.M.P.Nos.9407 & 9298 of 2022

[W.A.No.1435 of 2022]

1. Power Grid Corporation of India Ltd.
Rep. by its General Manager,
No.3/3/27-B, Bharathi Nagar,
Salem Main Road (Near Bus Stand),
Sankari-637301, Salem District.

2. The Deputy General Manager,
Power Grid Corporation of India Ltd.,
400/230 KV Substation,
Coimbatore Main Road,
K.Paramathy Post, Karur-639011.

... Appellants

Vs.

1. R.Mohanraj

2. T.Shanmugavadivelan

3. C.Periasamy

4. The District Collector,
Namakkal District, Namakkal.

... Respondents



W.A.Nos.1435 & 1458 of 2022

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 21.04.2022 passed in WP No.31793 of 2019.

[W.A.No.1458 of 2022]

1. Power Grid Corporation of India Ltd.
Rep. by its General Manager,
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2. The Deputy General Manager,
Power Grid Corporation of India Ltd.,
400/230 KV Substation,
Coimbatore Main Road,
K.Paramathy Post, Karur-639011.

... Appellants

Vs.

1. N.Mohanraj

2. A.S. Paramasivam

3. C.N. Ponnusamy

4. C.K. Pongiappan

5. K. Palanisamy

6. C.M. Ganesan

7. The District Collector
Namakkal District, Namakkal..

... Respondents



W.A.Nos.1435 & 1458 of 2022

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 21.04.2022 passed in WP No.31785 of 2019.

For Appellants in
both the petitions : Mr.A.R.L.Sundaresan, ASGOI,
assisted by Mr.V.Kalyana Raman
for M/s.Aiyar and Dolia

For Respondents in
both the petitions : Mr.S.Senthil (for R1 to R6);

: Mr.D.Gopal, Government Advocate
(for R7)

COMMON JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The writ appeals have been instituted by the Power Grid Corporation of India limited challenging the common order pronounced on 21.04.2022 in W.P.No.31793 & 31785 of 2019.

2. The learned Additional Solicitor General of India, Mr.A.R.L.Sundaresan, assisted by Mr.V.Kalyana Raman, learned Standing Counsel for the appellants would submit that the Writ Court allowed the writ petition mainly on the premise that W.P.No.13445 of 2010 dated



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13.08.2019 was allowed. In other words, relying on the judgement in the case of ***N.Baskar vs. Power Grid Corporation of India*** dated 13.08.2019 in ***W.P.No.13445 of 2010***, the impugned writ order was passed.

3. The learned Additional Solicitor General of India brought to the notice of this Court that the said order of the Writ Court have been reversed by the Division Bench of this Court in the ***Writ Appeal No.380 of 2020*** dated 18.08.2021. In the said appeal filed by the ***Power Grid Corporation of India vs. N.Baskar***, the Division Bench made the following observations.

“5. We are concerned with the interpretation of two provisions, namely, Section 10(d) and 16(3). Section 10(d) comes under Part III of the Indian Telegraph Act, which deals with the power of the Telegraphic Authority to place telegraphic line and posts. As rightly submitted by the learned Senior Counsel appearing for the first respondent/writ petitioner, Section 10(d) imposes a responsibility on the telegraph authority to make sure that any property which it deals with is put into a little damage as possible while exercising its power. Therefore, the legislature in its wisdom has widened the scope to



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include ?any property? and, therefore, ?any damage?.

As the provision is couched with a wider connotation, restrictive meaning is contrary to the object and rationale leading to its interpretation.

6. Section 10(d) has to be read in conjunction with Section 16(3). Section 16(3) speaks of ?any dispute?. Therefore, one has to concern with the disputes between the owner and the telegraphic authority. We cannot define the dispute in a restrictive way. Such definition is not meant to be introduced under Section 16(3) and that is the reason why it clearly says that any dispute between the parties while exercising the power by the telegraphic authority under Section 10(d). Therefore, Section 10(d) imposes an element of responsibility to the telegraphic authority asking it to exercise caution and restraint with respect to a possible damage to any property, any dispute in the exercise of such a power would be amenable to Section 16(3). The word -sufficiency of compensation- has also to be given a wider interpretation. When we speak about the sufficiency of compensation it will also include the case of no-compensation as well. Otherwise not only Section 10(d) but Section 16 would become redundant and otiose. There is no difficulty in understanding the aforesaid provision in Section 16(3),



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which confers the power on the District Court to adjudicate upon any dispute between the telegraphic authority on the one hand and the owner on the other hand.

7. In such view of the matter, we are inclined to permit the first respondent/writ petitioner to approach the District Court within a period of eight weeks from the date of receipt of a copy of this judgment by invoking Section 16(3) by making an application. On such application, we expect the jurisdictional District Court to decide all the issues on the question of sufficiency of the compensation provided the writ petitioner would be able to show the damage.

8. The writ appeal stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

9. In view of the limited scope involved, we expect the jurisdictional District Court to dispose of the application to be filed by the first respondent/writ petitioner within a period of four months from the date of receipt of such application.”

4. The judgement of the Division Bench had not been brought to the



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notice of the Writ Court at the time of final hearing of the writ petition.

Thus, the Writ Court proceeded on merits. The Division Bench relegated the parties to approach the appellate authority under Section 16(3) of Telegraph Act. Instead of relegating the parties to approach the appellate authority, the Writ Court adjudicated the issues on merits and granted compensation, which, in our opinion, is running counter to the decision in the case of N.Baskar in Writ Appeal No.380 of 2020 dated 18.08.2021.

5. Thus, the writ order impugned dated 21.04.2022 in W.P.Nos.31793 & 31785 of 2019 is set aside and the respondents are at liberty to approach the District Court for the redressal of their grievances in the manner contemplated. Accordingly, both the writ appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(C.K.J.,)

01.08.2024

Index : Yes/No

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Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



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S.M.SUBRAMANIAM, J.

and

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