



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
25.07.2024

PRONOUNCED ON
08.08.2024

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THE HONOURABLE MR. ACTING CHIEF JUSTICE
D. KRISHNAKUMAR

AND

THE HONOURABLE MR. JUSTICE K. KUMARESH BABU

Writ Appeal No.2249 of 2024
and C.M.P.No.15814 of 2024

K. Jothinathan

... Appellant

Vs

1. Mr. C. Radhakrishnan

2. The Chairman

Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai – 600 002.

3. The Executive Engineer (O&M)

Tamil Nadu Generation & Distribution Co., Ltd.,
Panruti, Cuddalore District.

4. The Assistant Engineer (O&M),

Tamil Nadu Generation & Distribution Co., Ltd.,
Angu Chetty Palayam Division,
Panruti Taluk, Cuddalore District.

... Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 27.06.2024 made in W.P.No.25102 of 2022 and pass such further order.

For Appellant : Mr. P. Dinesh Kumar



For Respondents : Mr.V.Venkata Sessaia for RR2 to 4

JUDGMENT

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(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra Court Appeal had been preferred challenging the order passed by the learned Single Judge wherein the order passed by the fourth respondent was quashed and a direction was issued to the fourth respondent to shift the electricity connection as requested by the Writ Petitioner/first respondent herein.

2. Heard Mr.P.Dinesh Kumar, learned counsel appearing for the appellant, Mr.V.Venkata Sessaia learned Standing counsel appearing for the respondents 2 to 4. Notice to the first respondent is dispensed with as we do not entertain the present Writ Appeal even at the admission stage for the following reasons.

3. The learned counsel appearing for the appellant would vehemently contend that the shifting of the electricity service connection would affect his property as the trees grown in the property would have to be cut and therefore, it affects his right. Even though the drawal of the electric line is not being made in his property and it is being made only in the road



margin, the said road margin abuts the appellant's property and it may result in any untoward incident, as the electric lines passes through the standing trees in the appellant's property. The learned Single Judge without considering these facts had concluded that the appellant cannot have any objection for drawing the electric lines in the road margin without considering the branches of the trees abutting to the said road margin and the said electricity connection would cause damage to the standing trees in the appellant's property. He would further submit that he would have no objection to have the electric lines drawn on the western side of the road margin rather than the eastern side of the road margin, which is adjacent to the appellant's property. He would further submit that since there was an objection not only by the appellant, but also by the villagers, the fourth respondent herein had passed the orders indicating the first respondent to inform an alternate place for installing the new electric line and if such alternate route is provided then revised estimate will be prepared and permission could be obtained. This aspect has been thoroughly overlooked by the learned Single Judge and held as if the claim of the first respondent for shifting had been rejected and had passed the impugned order and hence, he would seek interference of the order of the learned Single.



4.Supporting the said contention, the learned Standing counsel appearing for the respondents 2 to 4 would also contend that the claim of the first respondent had not been rejected by the Department and he had been only directed to provide an alternate route.

5.We have heard the learned counsel appearing on either side and perused the materials placed on record.

6.It is an admitted case that the drawal of electric line is not made inside the appellant's property and is only made on the road margin. The claim of the appellant is that by drawing of lines, the branches of the trees inside the appellant's property would be damaged. If that is the case, it is admitted by the appellant that the trees grown in the appellant's property had grown beyond his property and had encroached upon the road margin. A person in whose property such electrical lines are drawn can obstruct the erection as a right of objection, but in this case electric lines are drawn on the road margin and not in the appellant's property. When such being the case, the appellant cannot object to drawal of electric lines on the ground that such drawal of electric lines would affect the trees that had grown in the appellant's property.



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7.The learned counsel for the appellant had also produced the photographs indicating the trees that had grown on the appellant's property.

It could be seen from the photograph that branches of such trees have been grown on the road margin and that such trees are also not avenue trees.

The first respondent had sought for electric connection to his bore wells for carrying out his agricultural activities and when that being so, such objections raised by the appellant cannot be countenanced. The learned Single Judge after considering all these aspects only had set aside the order passed by the fourth respondent herein. It is the duty of the department to provide electric connection to the intending applicant. They cannot raise an issue by claiming that there will be a law and order problem in granting an electricity connection, they are bound by the statutory provisions of the enactment and they cannot wriggle out of the statutory duty.

8.For the foregoing reasons, we do not find any infirmity in the order passed by the learned Single Judge and in fine, the Writ Appeal fails and is accordingly dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

(D.K.K.,A.C.J.)

(K.B., J.)



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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Pbn

D. KRISHNAKUMAR., ACJ.,
and
K.KUMARESH BABU.,J.

Pbn

To

- 1.The Chairman
Tamil Nadu Electricity Board,
No.144, Anna Salai,
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A Pre-delivery Judgment made in
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