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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.26364, 26697 & 26701 of 2023

and

W.M.P.No.26132 of 2023

K.Sivaraj

... Petitioner in W.P.Nos.26364
& 26697 of 2023

J.Sharmilabanu

... Petitioner in W.P.No.26697 &
26701 of 2023

Vs.

The Chairman,
Tamil Nadu Electricity Board,
NPKRR Maaligai,
No.144-Annasalai,
Chennai – 600 002.

... 1st Respondent in all W.P's

The Chief Engineer,
Tamil Nadu Transmission Corporation,
Mannarpuram,
Trichy – 620 020.

... 2nd Respondent in W.P.Nos.
26364 & 26697 of 2023

The Chief Engineer,
Civil Transmission,
NPKKR Maaligai,
West Building 6th Floor,
No.144 Anna Salai,
Chennai – 600 002.

... 2nd Respondent in
W.P.No.26701 of 2023



The Superintending Engineer,
General Construction Circle,
Tamil Nadu Transmission Corporation,
No.182-Doctor Subbarayan Salai,
Tatabad, Coimbatore – 641 012.

... 3rd Respondent in all W.P's

The District Collector,
Palladam Road,
Tiruppur – 641 601,
Tiruppur District.

... 4th Respondent in all W.P's

Prayer in W.P.No.26364 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of order dated 05.05.2023 vide proceedings No.Na.Ka.1/316045/2023 on the file of the 4th respondent and quash the same and direct the 3rd respondent to remove/shift the tower location no.37 from the agricultural land of petitioner comprising in 335/1 sub-division number: 335/1B situated as Karaiyapalayam Village, Avianshi Taluk, Tiruppur District.

Prayer in W.P.No.26697 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare the final notification dated 08.03.2023 and 26.04.2023 on the file of 3rd respondent published in the Tamil Nadu Government Gazette as null and void.

Prayer in W.P.No.26701 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of order dated 17.04.2023 vide proceedings in No.Na.Ka.2392/2022/E5 on the file of 4th respondent and quash the same and



to direct the 3rd respondent to remove/shirt the tower location No.40 from the agricultural land of petitioner comprising in S.F.No.501 situated at Vettuapalayam Village, Avianshi Taluk, Tiruppur District.

For petitioners	: Mr.K.Myilsamy (in all W.P's)
For R1 to R3	: Mr.P.S.Raman Advocate General Assisted by Mr.D.R.Arunkumar Standing Counsel for TANGEDCO (in all W.P's)
For R4	: Mr.P.Balathandayutham Special Government Pleader (in all W.P's)

COMMON ORDER

These writ petitions have been filed challenging the orders dated 05.05.2023 and 17.04.2023 passed by the District Collector, Tiruppur District and further to declare the final notifications dated 08.03.2023 and 26.04.2023 on the file of the Superintending Engineer, Tamil Nadu Transmission Corporation as null and void.

2. The petitioners states that they were the owner of agricultural lands as described in the writ affidavit. Notification dated 09.10.2015 was issued by the Superintending Engineer, Tamil Nadu Transmission



Corporation Limited through a English daily newspaper 'New Indian Express' and a Tamil daily newspaper 'Thina mani' for erection of 230 KV SC line on DC Tower from Arasur 400/230 KV SS to Gobi 230/110 KV SS to transmit and distribute power supply to meet out additional power supply demands. The same was published in the Tamil Nadu Government Gazette Publication *vide* G.O.Ms.No.74 Energy (a1) dated 26.11.2015 wherein the names of the villages were notified.

3. It is not in dispute that the project was completed in the year 2018 and tower transmissions were activated and the towers are in active usage for the past more than four and a half years.

4. Mr.K.Myilsamy, the learned Counsel for the petitioners would submit that the notification itself was ambiguous and there is no clear details regarding the properties belonging to the petitioners and therefore, the petitioners were not aware of the installation of the towers. In the absence of any such notification and approved plan, the installation made by the respondents are untenable and the appeal filed before the District Collector was rejected without considering all these facts.



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5. The learned Advocate General, Mr.P.S.Raman would oppose the said contention by stating that the project was completed on 21.05.2018 and the transmission is being under usage for the past about four and a half years. The notification contains the names of the village and it further states that such specifications are tentative and final approval will be done only after practical assessments. In the present case, the plan was approved by the Department and accordingly, installation process was completed. The power supply is activated and that being the factum, now at this length of time, the grounds raised by the petitioners cannot be considered. The District Collector, Tiruppur has considered all the grounds raised by the petitioners and rejected the claim and therefore, the writ petitions are to be rejected.

5.1 The learned Advocate General has also relied on the Judgment of the Hon'ble Division Bench of this Court, in the case of ***Mary and Others Vs. The Chairman, Tamil Nadu Generation and Distribution, Corporation Ltd and others*** reported in ***2015-2-L.W.1011***.

6. Considering the arguments, this Court is of the considered opinion that the claim for realignment set out by the petitioners, at this length of time cannot be considered by the Court. Court not being an expert body



cannot suggest for alternate rules for installation of high tension electricity towers or to make alterations. Such projects are approved with the assistance of experts and such approvals already granted became final. In the present case, the project was completed and that being so, the remedy available to the petitioners is to get compensation by approaching the District Collector under the provisions of the Telegraph Act.

7. The Honb'le Division Bench in the case of ***Mary and Others Vs. The Chairman, Tamil Nadu Generation and Distribution, Corporation Ltd and others*** reported in ***2015-2-L.W.1011*** has held as follows:

“9. Further, according to the learned counsel, the transmission route was initially approved, but, the land in question was taken into consideration subsequently by making diversion in the route, which was not approved as required under Section 68 of the Electricity Act and this is evident from the fact that in the public notice, the survey numbers in question were not indicated. Even if a substantial portion of the project has been completed, the Constitutional right of the appellants cannot be taken away on the ground that the project has been completed substantially.

10.

11. It was further pointed out by the learned Additional Advocate General that some of the villages, which



could not find place in the notification of the scheme, as published in the Tamil Nadu Government Gazettee, Part VI Section 3(b) dated 24.02.2010 and in the Hindu dated 27.12.2009 and also in Dhina Malar dated 27.12.2009, have approached this Court in writ petitions in W.P.Nos.6803 and 6804 of 2012, and on dismissal of the said writ petitions, writ appeals were preferred in W.A.Nos.1013 and 1014 of 2014. In the said writ appeals, a Division Bench of this Court had clearly held that mere non-mentioning of the villages of the appellants therein in the notification itself will not vitiate the action of the respondent Board, more particularly, when the notification referred to only the route and not the villages covered in the route. Likewise, in the instant case, if certain survey numbers are not mentioned in the notification, the notification cannot be held as vitiated as the law in this regard is well settled by the Division Bench of this Court in the aforesaid cases.

8. This Court in the order dated 07.12.2018 passed in W.P.No.30124 of 2018 has elaborately considered the issues relating to erection of high tension electricity towers and the applicable statutes and rules. The said Judgment was confirmed by the Hon'ble Division Bench and the Supreme Court of India. Therefore, the claim of the petitioners for realignment of high tension electricity towers cannot be done, at this length



of time, since the project was completed and the transmission of electricity has been activated.

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9. The District Collector has considered all these facts and circumstances and rejected the claim of the petitioners, which cannot be termed as perverse. Thus, the petitioners are at liberty to submit their application to the District Collector, Tiruppur for claiming the damages and in the event of any such application, the District Collector, Tiruppur shall determine the compensation to be settled in favour of the petitioners as per the statues and rules and dispose of the applications within a period of eight (8) weeks from the date of receipt of such applications submitted by the petitioners and settle the compensation without causing any undue delay.

10. Accordingly, the Writ Petitions stand dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

31.01.2024

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

To



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