



W.P. No.36328/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.10.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.36328 OF 2023

AND

W.M.P. NOS. 36309 & 36310 OF 2023 & 2615 OF 2024

Gopalakrishnan

.. Petitioner

- Vs -

1. The District Collector
Cuddalore District
Cuddalore, Tamil Nadu 607 001.
2. District Revenue Officer
Cuddalore District
Office of the District Collector Office
Cuddalore.
3. The Revenue Divisional Officer
Cuddalore Revenue Division
Cuddalore.
4. Tahsildar
Panruti Taluk Office, Panruti
Cuddalore District.
5. Name of EE
The Executive Engineer (TLC)
TRANTRANSCO



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(Tamil Nadu Transmission Corporation)
Neyveli Division, Neyveli.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the 1st respondent in connection with impugned proceedings in Na.Ka.L.3/26189/2022 dated 16.12.2023 and quash the same and consequently forbearing the respondents and subordinates from laying the proposed 110 KV transmission line and its tower in the petitioner's patta land in S. No.99/1A, 2A and 3 at Kiliruppu Revenue Village, Panruti Taluk, Cuddalore District, consequently direct the respondents to pay the compensation for market value of the land in survey No.99/4D at Kiliruppu Revenue Village, Panruti Taluk, Cuddalore District and actual cost of the trees including future income loss from the trees in the above S. No.99/4D after paying compensation permit the 5th respondent to erect the Tower No.23 at the North West corner of the petitioner's land in survey No.99/4D at Kiliruppu Revenue Village, Panruti Taluk, Cuddalore District.

For Petitioner : Mr. V.Neethidurai

For Respondents : J.Ravindran, AAG,
Assisted by Mr.U.Bharanidharan
AGP for RR-1 to 4



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Mr.D.Arunkumar for R-5

ORDER

The present petition has been filed to quash the impugned order and for a further direction to pay the compensation to the petitioner for the trees felled and also the future loss towards the said trees.

2. It is the case of the petitioner that the property, which is the subject matter of the present petition, belongs to him in which there are more than 100 jack fruit trees and 300 teak trees. Each of the teak tree, after a period of time, would fetch more than Rs.1 Lakh. The petitioner is eking his livelihood with the income from the said plantation.

3. Whiles, the respondents intended to erect 110 KV DC lines through the lands of the petitioner due to which very many trees would have to be felled and most of the lands would be unusable. Though the petitioner is not objecting to erection of towers even on his lands, the grievance of the



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petitioner is only to the extent of the manner in which the towers are erected on his lands, as the present alignment would result in felling of a large number of trees. Therefore, the petitioner gave an objection for the manner in which the proposed alignment is made, which objection was rejected by passing the impugned order aggrieved by which the present petition has been filed by the petitioner.

4. Learned counsel appearing for the petitioner that while the petitioner is aggrieved by the impugned order and also the erection of towers, which would result in large scale felling of trees from his land, however, the erection being in public interest, the petitioner has placed an alternate alignment, through his lands in S. No.99/4D, which would result only in lower destruction of trees. However, the same has not been considered by the respondents while passing the impugned order, which renders the said impugned order unsustainable.

5. It is further pleaded by the learned counsel for the petitioner that while this Court may direct the respondents to consider the alternate



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alignment, he further submits that adequate compensation may also be directed to be given for the lands as well as for the trees, which are to be felled and to pay the said compensation before erection of the towers.

6. Per contra, learned Addl. Advocate General appearing for the respondents submits that the alternate alignment suggested by the petitioner would work hardship as the alignment would not be in a straight path, which would incur large scale modification of the plan and in such a scenario, the respondents could consider the proposal if the petitioner is ready and willing to pay the cost towards the alternate alignment, which would be more than a Crore of rupees. It is the further submission of the learned Addl. Advocate General that the alignment having been decided by experts, this Court may not interfere with the same and that the respondents would pay the amount which is due and payable to the petitioner in accordance with the Act and Rules in force.



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7. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. In ***Power Grid Corporation of India Ltd. - Vs - Century Textiles & Industries Ltd. & Ors. (2017 (5) SCC 143*** , the Supreme Court, with reference to the identical scenario arising out of Telegraph Act, held as under :-

“23) Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885 makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property. Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that the Telegraph Authority shall also be obliged to pay full compensation to all person interested for any damage sustained by them by reason of the exercise of those powers.

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26) We also do not find that the action of the Power Grid, in the given circumstances, by not shifting the transmission lines was arbitrary. From the facts noted above, it becomes apparent that not only it was unfeasible to change the alignment as almost entire work had already been completed by the time the writ petitioner started protesting against this move, even otherwise, the Power Grid has given sufficient explanation to point out that all relevant factors/ aspects were kept in mind while laying down the impugned transmission lines. Such transmission lines had to be in straight line to the extent possible for eliminating loss of transmission. It is also explained that electricity transmission is usually laid or crossed over agricultural land where 19 minimum extent of land gets utilised for erecting towers and where agricultural activities are not prejudiced/obstructed in any manner. The purpose is to avoid buildings, religious places, ponds etc. while laying down these transmission lines. It is only when it becomes inevitable that towers are placed on the private lines to the minimum and least extent possible. That is what was tried to achieve in the instant case. Another important factor, which needs repetition at this stage is that no blasting is permissible within 300 mts. from the 400KV line (already existing) or the tower structure. Mining of limestone can be taken up by adopting the methods other than use of explosive/blasting



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– without damage to the tower foundation/tower structure or the line, which can be accomplished by using jack hammer/pneumatic hammer with compressor so as to avoid any damage to the line or tower. This aspect has also been taken note of by the learned Single Judge of the High Court in the judgment dated March 11, 2008. The Division Bench did not differ with any of these findings.”

9. The decision of the Division Bench of this Court in ***T.Thirumalai - Vs - The District Collector & Ors. (2016 SCC OnLine Mad 15421)*** also supports the case of the respondents in respect of alternative route and for better appreciation, the same is extracted hereunder :-

"34. The objective of the respondents should always be to select the shortest route with the least possible damage to the lands and least detriment to the land owners. We are conscious of the fact that the choice of lands that will provide the shortest route with the least possible damage, may not always be so easy. If the respondents avoid installation of towers on certain lands due to their high fertility, the eco- system and the individual land owner are saved. But it may result in the transmission towers being erected on alternate lands that may not provide the shortest route. The consequence of this option is that the cost of the generation and transmission would go up, that would have an impact upon the economy of the country.



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Therefore, the act of balancing the conflicting interests are best left to experts."

10. From the aforesaid decisions, it is emphatically clear that feasibility is one of the main concerns which needs to be addressed coupled with balancing the conflicting interests, which are the pivotal points to be considered while considering the proposal for alternative route. It has been laid down that those aspects are to be best left to experts and this Court should not sit in the chair of the experts to find out whether the decision taken is proper or not so long as the said decision is within the domains of legality and rationality. In the case on hand, the technical experts have chosen a particular route and such being the case, this Court, under the guise of judicial review, cannot import its decision to that of the experts in the field.

11. In *Kushala Shetty's case (supra)*, the Hon'ble Supreme Court has held that the courts are not at all equipped to decide on the viability and feasibility of a particular project and in this regard, the Hon'ble Supreme Court held as under:-



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“28. Here, it will be apposite to mention that NHAI is a professionally managed statutory body having expertise in the field of development and maintenance of National Highways. The projects involving construction of new highways and widening and development of the existing highways, which are vital for development of infrastructure in the country, are entrusted to experts in the field of highways. It comprises of persons having vast knowledge and expertise in the field of highway development and maintenance. NHAI prepares and implements projects relating to development and maintenance of National Highways after thorough study by experts in different fields. Detailed project reports are prepared keeping in view the relative factors including intensity of heavy vehicular traffic and larger public interest. The Courts are not at all equipped to decide upon the viability and feasibility of the particular project and whether the particular alignment would subserve the larger public interest. In such matters, the scope of judicial review is very limited. The Court can nullify the acquisition of land and, in rarest of rare cases, the particular project, if it is found to be ex-facie contrary to the mandate of law or tainted due to mala fides. In the case in hand, neither any violation of mandate of the 1956 Act has been established nor the charge of malice in fact has been proved. Therefore, the order under challenge cannot be sustained.”

12. Further, it is to be pointed out that it has been the consistent view of the Courts that personal interest cannot override the larger public interest. When it comes to matters of larger public interest, the personal interest



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should be relegated to the back seat, else the economic and developmental activity of the country will be greatly hampered.

13. From the abovesaid decision, it is trite that this Court cannot sit over the decision of the experts with regard to the viability of a project and the alignment proposed by the experts cannot be interfered with by this Court unless arbitrariness has been pointed out. In the case on hand, it is not the case of the petitioner that there is arbitrariness in the decision and the alignment is wantonly prescribed to prejudice and cause detriment to the petitioner. The whole grievance of the petitioner is that the present alignment causes large scale felling of trees and, therefore, it could be taken through a different alignment.

14. It is to be pointed out that when an alignment is proposed, the experts take into account all necessary factors into consideration before fixing the alignment. Modifying the alignment merely because it affects a certain individual cannot be acceded to moreso, when the project is for a public purpose. Only to circumvent the difficulties faced by the persons, who will be



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affected by the project, compensation is being paid by the State to such persons. Therefore, when the experts have decided the alignment, with which there is no quarrel, except the fact that it affects the lands of the petitioner, the same cannot form the basis for a direction to the respondents to propose a different alignment, as highlighted by the petitioner.

15. Insofar as the contention with regard to the amount to be expended by the petitioner for a different alignment, as submitted by the learned Addl. Advocate General, learned counsel for the petitioner submits that this Court may direct the respondents to adequately compensate the petitioner for the land as well as the felled trees within a particular time frame, more particularly before the execution of the project and erection of towers.

16. In such view of the matter, this Court, while dismissing the writ petition, directs the respondents to adequately compensate the petitioner for the lands of the petitioner utilised for the erection of the towers in terms with the Act and the Rules and in accordance with law within a period of four



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weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes / No

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M.DHANDAPANI, J.

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