



W.P.(MD) No.1911 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.1911 of 2019

M.Mangayarkarasi

... Petitioner

Vs.

1.The Tamil Nadu Generation and Distribution Corporation Ltd.,
Madurai Electricity Distribution Circle,
Represented by its Superintendent Engineer,
Race Course Road,
K.Pudur,
Madurai – 625 002.

2.The Executive Engineer (Distribution),
South/Metro,
Power House road,
Madurai – 625 001.

3.The Assistant Executive Engineer,
The Tamil Nadu Generation and Distribution Corporation Ltd.,
Theppakulam Distribution,
Madurai Electricity Distribution Circle,
Madurai.

4.The Assistant Engineer,
The Tamil Nadu Generation and Distribution Corporation Ltd.,
Anuppanadi Rural,



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Madurai – 625 009.

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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records from the file of the second respondent relating to the impugned order dated 28.05.2018 in reference No.Tha.Tho.A/Sey.Po/Pa/Tho/MADU/Tho.Nu.Uo/Kho.Ma.Ku.Na/A.No.897 /18 and quash the same and consequently direct the respondents to remove the electrical transformer from the property in Survey No.185/6B, Anuppanadi Village, Madurai South Taluk, Madurai without insisting for any expenses for shifting the same to another place.

For petitioner : Mr.J.Barathan

For respondents : Mr.S.Deenadhayalan
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

2. This petition has been filed to direct the respondents to remove the transformer by quashing the impugned order dated 28.05.2018 bearing reference No.Tha.Tho.A/Sey.Po/Pa/The/MADU/Tho.Nu.Uo/Kho.Ma.Ku.Na/ A.No.897 /18 passed by the second respondent.



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3. The learned counsel for the petitioner would submit that the petitioner is the owner of the subject property and the same was purchased in the year 1981 vide registered sale deed dated 19.05.1981, in respect to which, the patta has also been issued to the petitioner on 29.06.2005.

4. It is submitted that the petitioner was unaware of the transformer erected on the petitioner's site.

5. In this connection, the learned counsel for the petitioner has drawn the attention of this Court to various representations sent to the respondents. Despite the same, the respondents have not come forward to remove the transformer. The learned counsel for the petitioner would submit that the impugned order is liable to be quashed.

6. On the other hand, the learned Standing Counsel for the respondents would submit that earlier, the pole was situated in the said land and thereafter, new transformer was erected to ensure the proper supply of electricity in the vicinity.



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7. It is submitted that though the decision was taken as early as 1992, no steps were taken by the petitioner to alter the location.

8. It is submitted that only in the year 2015, the petitioner's husband woke up and started to sending representations. It is submitted that it would cause great loss to the Tamil Nadu Generation and Distribution Corporation Ltd., to change the transformer.

9. By way of rejoinder, the learned counsel for the petitioner would submit that the placing of electricity transformer pole is clearly contrary to the law settled by this Court rendered in ***Superintending Engineer, Tamil Nadu Electricity Board, Maharaja Nagar, Tirunelveli and another vs. M.Sengu vijay and another*** reported in (2011) 3 MLJ 625. Relevant portion in para 11 is extracted as under:

“11.A perusal of the factual aspects of the unreported judgment (W.A.(MD)No.531 of 2009) relied on by the appellants shows that a transformer was put lawfully by the Board during the lifetime of the owner of the land. The Division Bench of this Court has also observed in that case that the land owner should have granted permission or consent for erecting the transformer. Admittedly, in this case, it is the specific stand of the Board that since the



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erstwhile owner did not object to the erection of the electric poles, it has to be construed as 'implied consent. Thus it is clear that no consent was obtained from the erstwhile owner and no compensation was also paid by the Board which is a mandatory requirement to be followed. Therefore, the said judgment relied upon by the learned counsel for the appellants is not applicable to the facts of this case. Under such circumstances, we are of the view that there is no valid ground to interfere with the order passed by the learned single Judge and we confirm the order of the learned single Judge."

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents. Although the respondents are liberty to utilise the land for the purpose of erecting poles for distribution of electricity under Section 10 of the Indian Telegraph Act, 1885, a permission should have been obtained from the petitioner. A consent of the Village Administrative Officer is not sufficient, if the land is owned by a third party although such a landlord may not be residing in it.

11. Be that as it may, the respondents are directed to take steps to alter the location of the transformer/poles from the petitioner's land or in alternative, pay suitable compensation to the petitioner.



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12. Either way, the petitioner's grievances shall be redressed by the second respondent or another officer, who competent to deal with this case, within a period of six weeks from the date of receipt of a copy of this order, considering the fact that both the petitioner, aged about 75 years and her husband are octogenarians, even at the time of filing this Writ Petition in the year 2019.

This Writ Petition is disposed of, with above directions. No costs.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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