



W.P.(MD) No.6858 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.6858 of 2017

P.Jeyaraj

... Petitioner

/vs./

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Chief Manager,
Power Grid Corporation of India Limited,
(A Government of India Undertaking),
Tirunelveli Construction Area Office,
400 KV Sub Station, Abisekapatti Village,
Vellankulam Post,
Manonmaniam Sundaranar University,
Tenkasi Road,
Tirunelveli District.
- 3.The Chief Manager,
Powergrid Corporation of India Limited,
Southern Region Transmission System-II,
400 KV Sub Station,
P.O. Myavadi (Via),
Kaniyur, Udumalpet 624 403,



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Thiruppur District,
Tamil Nadu.

4.The Chief Manager,
Power Grid Corporation of India Limited,
Southern Region Transmission System-II,
400 KV Sub Station,
Kinnimangalam Post,
Checkanoorani Via,
Madurai.

5.Sathyaseelan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents No.2 to 4 to pay the compensation to the petitioner for a sum of for removal of trees in their landed property in survey No.86/2, Paraipatti Village, Authoor Taluk, Dindigul District in connection with the installation of 765 KW Transmission Line from Tirunelveli to Udumalaipettai.

For Petitioner : Mr.J.Lawrance

For R1 : Mr.R.Suresh Kumar
Additional Government Pleader

For R2 to R4 : Mr.Aiyar and Dolia

For R5 : Mr.N.Shyllappa Kalyan



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ORDER

The writ petition had been filed by the petitioner seeking for compensation for the removal of the trees by the respondents for installation of the transmission lines.

2. The case of the petitioner is that the petitioner's father owned lands in patta No.745 and his father also had a joint patta along with his brother in respect of another land. The petitioner's father died on 02.09.2004 leaving behind the petitioner and 4 others as his legal representatives. The petitioner and the fifth respondent herein continued to be in possession and enjoyment of the property and they have also been paying necessary taxes.

3. When that being so, the respondents for laying the transmission lines from Tirunelveli to Udumalaipettai had in the course of erection removed various valuable standing crops. He would submit that the petitioner has not even been served with the notice for the same and no compensation had been paid to him, but however he would submit that the fifth respondent had been paid the compensation. The same had been made without verification of the revenue



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records and therefore, he has lodged a complaint with the Crime Branch, Dindigul against the fifth respondent and others and on the same, a Charge Sheet had also been filed.

4. He has also indicated that the petitioner has filed a suit in O.S.No.212 of 2009 on the file of the District Munsif Court, Dindigul praying that the fifth respondent should be prevented from removing and transporting the cut and fell down trees. In spite of the repeated requests to the respondents for payment of compensation, the same had not been responded to and therefore, he has filed this writ petition. He would submit that he is entitled for compensation, as the trees have been removed from the petitioner's land.

5. Countering his arguments, Mr.Aiyar and Dolia, learned counsel appearing for the respondents 2 to 4 would submit that the subject line was passing through only S.No.73/2 at Paraipatti Revenue Village, Dindigul District and also admit to the felling of trees for enabling the transmission lines to pass. He would further submit that the compensation for the above damages have been paid based on the assessment by the concerned Department and only with the



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certification of the Village Administrative concerned, compensation had been made by way of a Demand Draft to the fifth respondent to the tune of Rs. 3,77,250/-.

6. He would therefore submit that the claim of the petitioner is exorbitant and multifold than that of the actual value of the trees assessed by the Department. He would also submit that the dispute had arisen between the petitioner and the fifth respondent and that such dispute had been settled between themselves in the presence of the elders of the village. Suppressing all these, the petitioner had approached this Court and on that ground itself, the writ petition should be dismissed.

7. The learned Additional Government Pleader appearing for the first respondent would submit that the petitioner and the fifth respondent are brothers and that they have settled their differences between themselves and unnecessarily, the present writ petition had been filed only to achieve the ends of unjust enrichment. It is for the petitioner, if he is not satisfied with the compensation granted to approach the authorities under Section 16 of the Indian Telegraph Act,



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1885, or if it is the case of the petitioner that the fifth respondent had not parted money with him, then it is for the petitioner to file a civil suit against the fifth respondent for recovery of money and therefore, he would submit that this writ petition cannot be ordered as prayed for.

8. I have considered the rival submissions made by the learned counsel on either side.

9. It is the case of the petitioner that the transmission line had been erected in a manner passing through the land belonging to the petitioner and the fifth respondent. He had also initiated a criminal complaint and also filed a suit against the fifth respondent and the same is pending. It is the case of the respondents 2 to 4 that the compensation sum had been paid to the fifth respondent based upon the certificate issued by the Village Administrative Officer. When that be so, the respondents 2 to 4 cannot again be directed to pay the compensation to the petitioner for the value of trees. If the petitioner is aggrieved against the value of compensation, it is for him to approach the authority concerned under Section 16(2) of the Indian Telegraph Act, 1885 and to proceed against the fifth respondent in the manner known to law, which he had already undertaken.



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10. In such view of the matter, I am not inclined to issue the Mandamus as prayed for and in fine, the Writ Petition stands dismissed. However, the petitioner is at liberty to approach the authority concerned under Section 16(2) of the Indian Telegraph Act, 1885 if he is so aggrieved on the quantum of compensation.

11. At this juncture, the learned counsel for the petitioner would submit that at this length of time, it would not be possible for the petitioner to move an application under Section 16(2) of the Indian Telegraph Act, 1885, as it would be hit by limitation.

12. In the judgment of this Court in ***K.Gnaniah Nadar Vs. Power Grid Corporation of India, rep by its Chief Manager and others*** reported in **2023 SCC Online Mad 1212**, it had been held that there can be no question of limitation in invoking the powers under Section 16(2) of the Indian Telegraph Act, 1885, considering the damages to continue till the transmission power and the lines are erected/passing through the land in question. For better appreciation, the relevant paragraph is extracted hereunder:-



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“ 37. I have already held that the damage suffered by a person is continuing damage and for that reason, he would be entitled to the damages. But, however, such calculation of damages will have to be made on the date when the original damage that was inflicted upon.”

However, there shall be no order as to costs.

Index : Yes / No
Internet : Yes / No
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18.12.2024

To

The District Collector,
Dindigul District,
Dindigul.



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K.KUMARESH BABU, J.

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