



*W.P.(MD) No.23555 of 2017*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 21.06.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD) No.23555 of 2017**

**K.Kadarkarai**

**... Petitioner**

**/vs./**

1.The Superintending Engineer,  
Virudhunagar Electricity Distribution Circle,  
Tamil Nadu Electricity Board,  
65/1, Ramamoorthy Road,  
Virudhunagar 626 001.  
Virudhunagar District.

2.The Assistant Executive Engineer,  
Sub Station, TANGEDCO,  
Rajapalayam,  
Virudhunagar District.

3.The Assistant Engineer,  
Operations and Maintenance,  
Tamil Nadu Electricity Board,  
Chatrapatti 626 102,  
Rajapalayam Taluk,  
Virudhunagar District.

4.A.Muthupillai



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5.The Tahsildar,  
Taluk Office,  
Rajapalayam 626 117,  
Virudhunagar 626 001.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 3 to remove the electrical posts placed in the private patta land of the petitioner and further direct the respondents 1 to 3 to return Rs.1,15,080/- paid by the petitioner towards removal of electrical post from his private patta land with normal interest.

For Petitioner : Mr.K.M.Barathkumar

For R1 & R2 : No appearance

For R3 : Mr.S.Deenadhayalan  
Standing Counsel

For R5 : Mr.G.Suriyananth  
Additional Government Pleader

### **ORDER**

The petitioner has filed this writ petition for a Mandamus to direct the respondents 1 to 3 to remove the electric pole placed in the private patta land of the petitioner and to direct the respondents 1 to 3 to return a sum of Rs.1,15,080/- paid by the petitioner towards removal of electric pole from his private patta land with interest.



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2.The petitioner had given a representation regarding the electric line, which is passing over his property, where the petitioner has constructed a house and a godown at south-north side of the power loom building. It is the case of the petitioner that there is a 230 V three phase electric line passing over and across the scheduled property diagonally and that the gap between the electric line and tin plate roof of the house is only ½ feet (6 inches).

3.It is submitted that the petitioner had given the representation, which was acted upon by collecting a sum of Rs.1,15,080/- for removal of the electric line from the private patta land of the petitioner as per norms. It is submitted that while relaying the line, the fourth respondent has objected and thus, shifting of the electric line from the private patta land of the petitioner has been stalled. Hence, the present writ petition.

4.It is noticed that the second respondent/the Assistant Executive Engineer, has addressed a letter dated 18.04.2017 to the petitioner with a copy marked to Executive Engineer/Distt/Rajapalayam and Superintending



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Engineer/VREDC/Virudhunagar, wherein it has been stated that if the objection is solved or if new route is identified, then the estimate sanctioned already will be revised based on the cost data 2017-18 and the balance amount be borne by the petitioner. It has been also informed that the existing line cannot be removed without laying it on an alternate route.

5.The responsibility of relaying of the line and finding an alternate route is with the Authorities. The petitioner cannot be asked to scout for the alternate route, as the petitioner is incapable of taking such a decision. The electric line is passing dangerously over his property and therefore has to be removed.

6.The respondents can demand compensation from the petitioner in terms of Section 17 of the Indian Telegraph Act,1885, which reads as under:

***“17. Removal or alteration of telegraph line or post, on property other than that of a local authority:***

*(1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or*



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*alter the line of post accordingly: Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.*

*(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.*

*(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form; and the order so made shall be final."*

It is made applicable to electric lines as well.

7. Therefore, there shall be a direction to the respondents 1 to 3 to take steps to find out the alternate route for the electric line passing over the petitioner's property by collecting suitable charges, if any required over and above the amount of Rs1,15,080/- that has been paid by the petitioner. This exercise shall be carried out by the respondents 1 to 3 as expeditiously as possible, preferably within a period of 6 months from the date of receipt of a copy of this order.



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8. With the above directions, the Writ Petition stands disposed of. No costs.

Index : Yes / No

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Internet : Yes / No

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To

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**C.SARAVANAN, J.**

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