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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2025

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 31649 of 2024

And

W.M.P.Nos. 34410 & 42408 of 2024

S.Kumaravel

... Petitioner

..Vs..

1. The District Collector
Tiruppur District, Tiruppur.
2. The Tahsildar
Kangayam Taluk, Kangayam
Tiruppur District.
3. The Block Development Officer
(Village Panchayat)
Vellakoil Panchayat Union
Vellakoil, Tiruppur District.
4. TP Vardhaman Surya Limited
C/o. The Tata Power Company Ltd.,
Corporate Centre
No.34, Sant Tukaram Road,
Carnac Bunder
Mumbai – 400 009.



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5. The President/Executive Officer
Velappanaickenvalasu Village Panchayat
Velappanaickenvalasu,
Vellakoil Via, Kangayam Taluk
Tiruppur District.

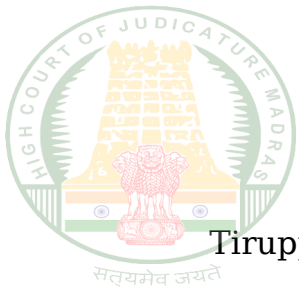
... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the entire records relating to the impugned order passed by the fifth respondent in her proceeding permission Order No. 19/2024-2025, dated 26.09.2024 and quash the same.

For Petitioner	:: Mr. C.Prakasam
For RR 1 to 3 & 5	:: Mr. N.Naveen Kumar Government Advocate
For 4 th Respondent	:: Mr. C.S.Vaidyanathan Senior Counsel and Mr.S.Satish Parasaran Senior Counsel for M/s. Shree Venkatesh

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to an order passed by the fifth respondent / the President /Executive Officer, Velappanaickenvalasu Village Panchayat, Velappanaickenvalasu, Vellakoil Via, Kangayam Taluk,



Tiruppur District, dated 26.09.2024, in proceeding permission Order No.19/2024-2025, dated 26.09.2024 and quash the same.

2. The writ petitioner S.Kumaravel is a resident of Senathipalayam Village in Mayilrangam Post at Kangayam Taluk in Tiruppur District and claims that he is the owner of patta agricultural lands in S.No. 1283 and 408/2A, Senathipalayam Village at Kangayam Taluk, Tiruppur District, measuring about 7.52 acres. He claims that he is cultivating agricultural crops by using the irrigating water through PAP canal and that the lands are registered as Ayacut land with PAP project. Whenever the canal water is not available, the petitioner is dependent on rain water and also spillage water from nearby lake. The petitioner further stated that in his village, there are many tanks, lakes and water bodies in S.Nos. 654, 640/B3A1, 642, 636/A, 468, 465/A, 464/A4A and 485. The said water bodies get water whenever the rain falls and storage of that water is helpful for irrigation of the agricultural lands and also to preserve the water levels in nearby wells and borewells. It is claimed that the said water bodies are more than 100 years old.

3. The petitioner is deeply aggrieved by the order of the fifth respondent whereby the fifth respondent had granted permission for



erection of a high tension electricity tower in the water body. The Writ Petition has been filed questioning such order granted by pointing out that such construction should not be put up in a water body and if put up, would cause danger to the villagers when they walk across those lands. The possibility of the villagers and/or their livestock being electrocuted was also pointed out. It is also contended that if the tower is put up, it would prevent water being stored in the water bodies. It is under those circumstances that though representations had been given by the petitioner and since orders have not been passed, the Writ Petition has been filed.

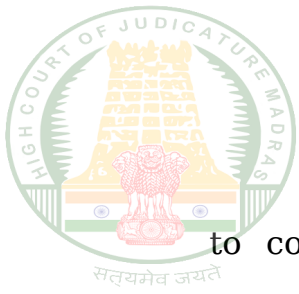
4. The writ Petition had been admitted and rule nisi was issued on 23.10.2024. Stay of construction of the tower was also granted on the same date. On receipt of notice, the fourth respondent had filed W.M.P.No. 42408 of 2024 seeking to vacate the exparte order of stay.

5. In the affidavit filed in support of that petition, the authorised signatory of the fourth respondent, which is a subsidiary of Tata Power Renewable Energy Limited had stated that the fourth respondent is engaged in the business of developing, constructing and operating wind and solar power assets across the country. It had been further stated that a 198 MW of wind capacity project was



installed and commissioned at Tirupur and Karur Districts. It had been further stated that the Ministry of Power, Government of India had granted prior approval under Section 68(1) of the Electricity Act 2003 for installation of dedicated overhead transmission lines which is part of the project. It had been further stated that by a notification dated 21.10.2024, the Ministry of Power had conferred upon the holding company of the petitioner, Tata Power Renewable Energy Limited, the powers of Telegraph Authority under Section 164 of the Electricity Act 2003. This had given authority to the said company to undertake installation, maintenance and operation of telegraph and electrical infrastructure including transmission lines and towers with the privileges outlined in the Indian Telegraph Act, 1885.

6. It had been further stated with respect to the specific grievance of the petitioner that the tower was proposed to be put up and information to the villagers had been issued by public notices seeking objections for the construction of the high tension tower. It was only after ensuring that no objections had been received did the village Panchayat President grant permission by notification dated 21.10.2024. It had been stated that it is not correct to allege that the approval was granted only for an electrical pathway and not for construction of high tension tower. It had been stated that permission



to construct high tension tower was specifically granted by the Panchayat.

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7. The learned Senior Counsel appearing on behalf of the fourth respondent also pointed out Section 20-A of the Specific Relief Act as amended in 2018 which placed a restraint on the courts from granting injunction for infrastructure projects, as that would delay execution of such projects. It was urged that it would only be appropriate that Courts err on the side of caution while exercising discretion to grant injunction in infrastructure projects. Alternatively, during the course of arguments, the learned Senior Counsel appearing on behalf of the fourth respondent held out an assurance that there would be no obstruction of the water bodies and the water bodies would be filled with water as they are always filled and that the Villagers can always graze the cattle in the field as they always did and that there was no danger or possibility of any electrocution or any other eventuality happening to the disadvantage of the villagers or to their livestock. It was also been pointed out that the tower would be constructed by providing sufficient safeguards addressing all the grievances and concerns of the villagers including the writ petitioner herein.

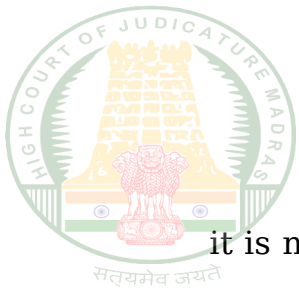


8. It was further pointed out that since the project is a mega project, public interest would override private interest and the Court should also balance that factor to ensure that the project is put in place and is regulated and not stopped at the instance of one single villager or the writ petitioner.

9. I have carefully considered the arguments advanced and perused the records.

10. The Writ Petition has been filed in the nature of a Certiorari seeking interference with the permission granted by the Village President/ fifth respondent permitting the fourth respondent to put up a high tension tower to transmit electric lines. This is one such tower out of several others. It is seen from the arguments advanced that all other towers had been put up and that by way of stay granted by this Court in this Writ Petition, this one tower alone could not be erected by the fourth respondent and therefore electric lines could not be drawn leading to the power grid.

11. The only ground on which the petitioner seeks stay of putting up the tower is that it is proposed to be erected on a water body. However, on the side of the respondents, it is contended that



it is not to be erected on a water body but away from the water body.

Be that as it may, an assurance had been held out that the flow of water would not be affected.

12. In effect, by construction of the tower, there will not be any physical change brought about to the lay of the land. It is also seen that quite apart from this fact, the villagers can always walk across the pathway or the fields as they always did. The cattle come continue to graze. The crops will continue to grow.

13. Naturally, the Court will have to balance all factors including the loss suffered by not putting up the tower by the fourth respondent and the advantage gained by the petitioner by preventing the erection of the tower. There is no advantage gained. As a matter of fact, there is no loss suffered by the petitioner herein since his concern of the water body had been addressed.

14. While balancing this fact with the loss suffered by the fourth respondent if the tower is not erected and examining this fact with the fact that this one tower along had not been erected, naturally the balance swings in favour of the fourth respondent to erect the tower.



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15. In order to allay the fear of the petitioner, the District Collector may direct the second and third respondents, the Tahsildar, Kangayam Taluk, Kangayam, Tiruppur District and the Block Development Officer, Vellakoil Panchayat Union, Vellakoil, Tiruppur District to convene a public meeting and explain to the petitioner and other villagers about the fact that no danger would accrue to any of them. This would be an exercise to allay the fears of the villagers. The project can proceed. The interim stay which had been granted stands vacated.

16. The Writ Petition stands dismissed. W.M.P.No. 42408 of 2024 stands allowed and W.M.P.No. 34410 of 2024 stands dismissed. No order as to costs.

10.01.2025

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

1. The District Collector
Tiruppur District, Tiruppur.



C.V.KARTHIKEYAN, J.,

vsg

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