

Ramamurthi and Another Vs. The District Collector, Dharmapuri and Others

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Court : Chennai

Decided On : Jan-18-2017

Judge : T. Raja

Appeal No. : W.P. Nos. 20443 & 20444 of 2016

Appellant : Ramamurthi and Another

Respondent : The District Collector, Dharmapuri and Others

Judgement :

(Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the first respondent relating to the impugned proceedings bearing Na.Ka.9418/2015/B2, dated 31.05.2016 and quash the same and direct the respondents not to interfere with the petitioners' lands in S.Nos.530/4A4 and 4A3, and S.No.529/2A of Perumbalai Village, Pennagaram Taluk in Dharmapuri District, respectively.)

Common Order:

1. Challenging the impugned proceedings dated 31.05.2016 of the first respondent / the District Collector, Dharmapuri, ordering for installation of towers into the lands of the petitioners covered in S.Nos.530/4A4 and 4A3, and S.No.529/2A of Perumbalai Village, Pennagaram Taluk in Dharmapuri District, respectively, they have filed the present writ petitions seeking to quash the same with a further direction to the respondents not to interfere with the petitioners' land covered in the

above said survey numbers.

2. The petitioner / Mr.Ramamurthi, in W.P.No.20443 of 2016, is the owner of the property to an extent of 1.39 acres covered in Survey Nos.530/4A3, 4A4, Perumbalai Village, Pennagaram Taluk, Dharmapuri District. Likewise, the petitioner / Ranjitham in W.P.No.20444 of 2016 is the owner of the property to an extent of 60 cents covered in S.No.529/2A, Perumbalai Village, Pennagaram Taluk, Dharmapuri District.

3. Learned counsel appearing for the petitioners submitted that during May, 2014, the respondents, by approaching the petitioners, stated that they were intending to install a High Tension (HT) tower in the above said patta lands of the petitioners. It is further stated that the respondents can very well make use of the poramboke lands available very next to the petitioner's lands for the purpose of erecting HT towers. However, without doing so, they have brought some machineries for the purpose of digging pits, which ultimately made them to file a civil suit before the District Munsif Court, Pennagaram, and the same is still pending. It is further stated that the first respondent, vide communication dated 15.10.2014, directed the petitioners and others to be present for an enquiry on 28.10.2014 and thereafter, the petitioners had given their explanation stating that the revenue authorities had earlier agreed to use the adjacent poramboke lands and therefore, they have requested not to use their lands as that would cause damage to the crops and that the value of the lands would diminish, if the towers are erected into their lands.

4. Continuing his arguments, it is further contended that the respondent has not even passed any speaking order for erection of HT towers nor has conducted an enquiry as contemplated under the Act. It is further stated that when similarly placed two persons, namely, Selvakumar and Govindan have made a similar request to the authorities stating that they can make use of the poramboke lands, the respondents, for the reasons best known to them, by acceding to their request, had erected tower in the poramboke land, which is adjacent to the lands of the said persons.

5. It is at this point of time, by taking instruction from one Mr.Venkatesan, Executive Engineer, who is present in the Court, learned Additional Advocate General for the respondents 2 and 3 submitted that the request of one Mr.Govindan seeking not to erect HT towers in his lands was not accepted and thereby, respondents have even erected Tower No.148/1 in his lands as well, therefore, such contention of the petitioner cannot be accepted by this Court, especially whey they have not even made any plea in the affidavit filed in support of the writ petitions.

6. It is further submitted by the learned Additional Advocate General that the Tamil Nadu Transmission Corporation Limited has approved establishment of 3 Nos. of 400 KV Sub-stations at Theppakundu, Anikadavu and Rasipalayam in addition to Kayathar and Kanarpatty 400 KV sub-stations, vide proceedings No.59, dated 03.12.2012, for the purpose of evacuation of wind power in Tamil nadu. Thereafter, the Tamil Nadu Electricity Board have started their work to erect a new 400 KV Double Circuit line from the newly constructed Rasipalayam 400 KV Sub-Station to Salem (Dharmapuri) PGCIL 765/400 KV S.S. to a route length of 194 km to evacuate the electricity power supply, which has to be generated from the wind mills of Souther region and also to utilize the Extra High Tension (EHT) pathway to transmit the electric power supply from Northern States of India by connecting the PGCIL sub-station at Salem (Dharmapuri). The Scheme was also approved by the Government of Tamil Nadu and it was also published in the daily newspaper on 27.03.2013.

7. By narrating so, it is further submitted that as per the approved route alignment, Tower Nos.148/2 and 149/0 have been earmarked to the lands belonging to the petitioners respectively. It is further stated that the request of the petitioners to erect the above said towers adjacent to their lands cannot be entertained as the said poramboke lands suggested by the petitioners are very close to the Reserve Forest land, therefore, it is not feasible to erect the towers in the said poramboke lands suggested by the petitioners. When such factum was explained to the petitioners, they were not convinced, therefore, the Executive Magistrate-cum-District Collector, Dharmapuri, conducted the meeting in his chamber several times, however, due to disagreement of the land owners, the District Collector

instructed the Revenue Divisional Officer, Dharmapuri, to submit the field inspection report. Accordingly, the said authority inspected the site on 10.02.2015 and submitted his report on 12.02.2015. Based on such report, the District Collector formed a committee with three various departmental senior officials of revenue, PWD and TNEB and thereafter, reports were also obtained from them. Based on the committee reports, the District Collector, Dharmapuri, conducted a meeting and issued order to proceed with the TNEB 400 KV tower line work in the petitioners land for the welfare of the public by rejecting their request. Thus, he contended, such a well reasoned impugned orders passed by the first respondent cannot be interfered with, as the respondents have already completed 95% of the work by erecting almost all the towers except two towers in question covering 194 kms.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. The Tamil Nadu Transmission Corporation Limited, vide proceedings dated 03.12.2012, has granted approval to the respondents for establishment of 3 numbers of 400 KV sub-station at Theppakundu, Anikadavu and Rasipalayam for the purpose of evacuation of wind power. Pursuant to such approval, the respondents have been erecting a new 400 KV double circuit line from Rasipalayam 400 KV sub-station to Salem (Dharmapuri) PGCIL 765/400 KV sub-station for a route length of 194 kms., which required a total number of 558 towers. It is also not in dispute that the respondents have erected almost all the towers, except the erection of two towers in the petitioners' lands.

10. The only grievance of the petitioners is that instead of erecting HT towers at their lands, the respondents can utilize the poramboke lands, which are adjacent to their lands belonging to the forest department, as the erection of towers into their lands would ultimately not only cause damage to the crops but also financial loss to the exchequer.

11. The District Collector, Dharmapuri, had deputed the Revenue Divisional Officer, Dharmapuri, to conduct the field inspection so as to ascertain the feasibility to erect HT towers in the poramboke lands adjacent to the petitioners'

lands as requested by them. After inspection, the Revenue Divisional Officer had submitted his report on 12.02.2015 stating that it is not feasible to erect the HT towers in the poramboke lands, which are reserved Forest Area. Thereafter, the Executive Magistrate-cum-District Collector, Dharmapuri, formed a committee with three various departmental senior officials of Revenue, PWD and TNEB, who, in turn, upon conducting inspection had categorically stated that as the respondents have already laid down the towers before and after the petitioners' lands, it is not viable now to change the original route, for, the respondents have erected almost all the towers, except two towers in question covering 194 kms. Thus, when the experts took a definite stand that the original route, which was proposed, was technically more feasible and that it would be in the interest of the public, I find no merit on the contention of the petitioners to change the route, which was not found to be technically feasible by the experts.

12. Further, as stated above, the respondents have already completed entire work, except the erection of two towers in question, therefore, at this later stage, it would be improper on the part of the petitioners to seek for alternative route for installation of these two towers in question, as this would unnecessarily delay the process further. The electricity power to be evacuated through its supply line is to provide uninterrupted power supply to both agriculture and industrial development, therefore, in the public interest, I do not find any merit on the prayer of the petitioners seeking to quash the impugned orders of the first respondent rejecting the request of the petitioners to change the route by way of erecting the two towers in question in the poramboke lands which is in the reserved Forest area.

13. Another contention of the petitioners that one Mr.Govindan's similar request to erect the tower in a poramboke land was acceded by the respondents, cannot be entertained at this later stage, for, to substantiate such contention, neither they have made any plea in their affidavit filed in support of their writ petitions nor they have produced any supporting documents.

14. Thus, for the reasons stated above, the the writ petitions fail and they are dismissed accordingly. No Costs. Consequently, connected miscellaneous petitions are closed.

