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Jayaprakash B vs the Kptcl

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Court : Karnataka Orders

Decided On : Jun-28-2024

Judge : N S Sanjay Gowda

Appeal No. : WP/37569/2017

Appellant : Jayaprakash B

Respondent : The Kptcl

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE, 2024 BEFORE THE HON'BLE MR JUSTICE N S SANJAY GOWDA WRIT PETITION NO. 37569 OF 2017 (GM-KEB) BETWEEN:

1. JAYAPRAKASH B S/O LATE MONAPPA GOWDA, R/AT KONADKA PADAVU HOUSE, JALSUR VILLAGE AND POST, SULLIYA TALUK, D.K.DISTRICT-574239.

2. MURALIDHARA A S/O LATE BALAKRISHNA GOWDA ARICULTURIST R/AT ADKARU HOSUE, JALSUR VILLAGE & POST

SULLIYA D K DISTRICT - 574239.

3. N PURUSHOTTAM GOWDA

S/O LATE NARNAPPA GOWDA Digitally ARICULTURIST signed by R/AT JALSUR VILLAGE & POST KIRAN KUMAR R SULLIYA, D K DISTRICT - 574239. Location: HIGH COURT OF 4. K VISHWANATHA RAO KARNATAKA S/O LATE APPAJI RAO AGRICULTURIST R/AT GREEN LAND HOUSE KANTHAMANGALA, AJJAVARA VILLAGE SULLIYA TALUK, D K DISTRICT - 574239.

5. K R JAGADEESH RAO S/O LATE RAMOJI RAO AGRICUTLURIST R/AT KANTHAMANGALA -2- AJJAVARA VILLAGE, SULLIYA TALUK, D K DISTRICT - 574239.

6. SANDEEP K Y S/O YADOJI RAO AGRICULTURIST R/AT KANTHAMANGALA AJJAVARA VILLAGE SULLIYA TALUK, D K DISTRICT - 574239.

7. DEVAKI S/O LATE ESHWAR GOWDA AGRICULTURIST R/AT UJIRUGULI HOUSE, BEHIND K E B, KASABA VILLAGE, SULLIYA, D K DISTIRCT - 574239.

8. DIVAKAR RAI S/O LATE NARAYANA RAI, R/AT JALSUR HOUSE, JALSUR VILLAGE AND POST, SULLIYA, D.K.DISTRICT-574239.

9. GANGADHARA GOWDA S/O LATE RAMAYYA GOWDA R/AT PUTTILA HOUSE, AJJAVARA VILLAGE AND POST, SULLIYA TALUK, D.K.DISTRICT.

10. YOGANANDA M B S/O BABANNA GOWDA R/AT KANTHAMANGALA HOUSE, AJJAVARA VILLAGE AND POST, SULLIYA TALUK, D.K.DISTRICT-574239.

11. LINGAPPA GOWDA S/O LATE MONAPPA GOWDA, -3- R/AT KONADKA PADAVU HOUSE, JALSUR VILLAGE AND POST, SULLIYA TALUK, D.K.DISTRICT-574239.

12. ARUN KUMAR K S/O BALANNA GOWDA, R/AT KURUNJI HOUSE, KASABA VILLAGE, SULLIYA, D.K.-574239.

13. SRI. BHARATH KUMAR S/O LATE RAMANNA GOWDA R/AT PUTTILA HOUSE, AJJAVARA VILLAGE, SULLIYA TALUK, D.K.DISTRICT-574239 PETITIONERS (BY SRI. M SUBRAHMANYA BHAT., ADVOCATE) AND:

1. THE KPTCL REPRESENTED BY THE MANAGING DIRECTOR KAVERI BHAVAN, BANGALORE - 09.

2. MANGALORE ELECTRICITY SUPPLY COMPANY LIMITED REPRESENTED BY THE MANAGING DIRECTOR A B SHETTY CIRCLE , PANDESHWAR MANGALORE - 01.

3. EXECUTIVE ENGINEER (ELE) MESCOM, MAJOR WORKS DIVISION KPTCL, KAVOORU, MANGALURU - 15.

4. EXECUTIVE ENGINEER (ELE) O&M DIVISISON MESCOM BANNURU PUTTUR - 574243 DAKSHINA KANNDA DISTRICT. -4-

5. DEPUTY COMMISSIONER /

DISTRICT MAGISTRATE DAKSHINA KANNADA DISTRICT, MANGALORE - 01. RESPONDENTS (BY SMT. SUMANA BALIGA.M., ADVOCATE FOR R-1 TO R-4; SMT. HEMALATHA.V., AGA FOR R-5) THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO THE CASE OF THE PETITIONERS AND QUASH THE IMPUGNED ORDERS DATED 6.1.2017 PASSED BY THE R-5 VIDE ANNEXURE-M AS THE SAME IS VIOLATIVE OF ARTICLES 14, 21 AND 300-A OF THE CONSTITUTION OF INDIA, ETC. THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioners are agriculturists and permanent

residents of various villages in Sullia Taluk, primarily dependent on commercial crops (such as areca nut, coconut and pepper) for their livelihood, and have filed this writ petition challenging the order dated 06.01.2017 passed by the 5th

respondent permitting the drawing of 110 KV electricity transmission lines through their lands.

2. The first respondent had formulated a project to

establish a 110/33/11 KV substation at Sullia, Dakshina -5- Kannada District by upgrading the existing 33/11 KV sub- station. This involved the drawing of 110 KV transmission lines from Madavu transmission station to Sullia, passing through Kolthige Village. The proposed project initiated in 2002-2003 has progressed at a slow pace

3. The third respondent had sought suggestions from

the Member of Legislative Assembly (MLA) of the constituencytherein to minimize inconvenience to the farmers and the public. It was stated that compensation would be paid for the loss of fruit-yielding trees and agricultural crops, but not for the property. The MLA and the other respondents proposed drawing the new 110 KV line alongside the existing 33 KV line passing through mostly government land,causing minimal inconvenience to the public and the petitioners.

4. Despite these suggestions and the alternative

proposal to upgrade the existing 33 KV line, the project continued with the original plan. The petitioners issued a legal notice demanding the withdrawal of the proposed -6- corridor, but received a response stating that the project would proceed with minimal inconvenience to the public.

5. The petitioners challenged the same under Sections

16(1) and 17 of the Indian Telegraph Act, 1885 contending that the proposed project would deprive them of their valuable property and violate their right to life. They argued that upgrading the existing 33 KV line would avoid the need to acquire private land and reduce project costs. The fifth respondent, however, rejected these petitions and allowed the project to proceed.

6. The petitioners have thereforeapproached this Court

asserting that the respondents failed to consider the viable alternative of upgrading the existing 33 KV line, which would have minimized inconvenience and financial burden, and said decision would thus be illegal. The petitioners submitted that their agricultural lands are their only source of livelihood, and the drawing of 110 KV transmission lines through their lands would significantly disrupt their farming activities and reduce their income. -7-

7. The petitioners further contended that the process of

consultation with said MLA and other stakeholders was superficial and did not adequately take into account their objections. They highlighted the fact that the respondents did not provide sufficient compensation for the loss of agricultural crops and fruit-yielding trees, and that the compensation mechanism was not transparent.

8. The petitioners also argued that the project violated

their fundamental rights under Articles 14, 21, and 300-A of the Constitution of India. They further claimed that the decision to proceed with the original plan was made without proper application of mind and failed to balance the need for development with the protection of their property rights. They also claimed that the existing 33 KV could have been upgraded to meet the demands. Reliance was also placed on a judgment of this Court in Sri. S. M. Rao and Ors. v. State of Karnataka & Ors. dated 05.04.1999 vide ILR 1999 KAR 3176, which gives a finding on the technical expertise of the KPTCL. It is also -8- submitted that the route alignment of the KPTCL is to be considered over a laymans statement because of its expertise in the field. Hence, this contention of the petitioner cannot be considered.

9. The respondents, on the other hand, contended that

the project is essential for the development of the region and the improvement of power supply to Sullia and surrounding areas. They argued that the project was conceived in the larger public interest and that all necessary procedures were followed in its execution.

10. The respondents submitted that the alternative

proposal to upgrade the existing 33 KV line was thoroughly considered but found to be technically unfeasible and financially imprudent. They argued that the existing 33 KV line could not support the increased load required for the new substation and that constructing a new 110 KV line was the only viable solution.

11. The respondents also contended that adequate

compensation was provided to the affected farmers as per -9- the prevailing norms and that the process was conducted transparently. They argued that the compensation for loss of crops and trees was calculated based on current market rates and that additional compensation for land acquisition was not warranted as the land was not being permanently acquired but only used for laying transmission lines.

12. It cannot be in dispute that developmental projects

are necessary for public welfare, but they must be implemented in a manner that causes the least inconvenience to the public and respects citizens' rights. In this case, the documents presented by the petitioners indicate that the alternative proposal of upgrading the existing 33 KV line was indeed considered by the respondents but was found to be technically and financially unfeasible.

13. This Court also notes that the project has been in

progress since 2002-2003 and that significant investments have already been made. The delay in execution has been attributed to various technical and administrative - 10 - challenges. The court acknowledges the importance of the project for improving the power supply in the region and the benefits it would bring to the larger public.

14. Regarding the compensation provided to the

petitioners, this Court finds that the respondents have followed the established norms and that the compensation for loss of crops and trees was calculated based on the prevailing market rates. ThisCourt does not find evidence of arbitrariness or

lack of transparency in the compensation process.

15. The petitioners' arguments, while highlighting genuine concerns, do not establish that the impugned

order is arbitrary, illegal, or unconstitutional. The project

is in the larger public interest and that the respondents have taken necessary steps to minimize inconvenience and provide adequate compensation.

16. Accordingly, this writ petition is dismissed. The

respondents are directed to continue with the implementation of the project as per the original plan, - 11 - ensuring that the petitioners are adequately compensated for any loss of crops and trees as per the prevailing norms. Sd/- JUDGE PKS/P/N List No.: 1 Sl No.: 29

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