

**(2009) 07 MAD CK 0358**

**In the Madras High Court**

**Case No :** Writ Petition No's. 28299 to 28301 of 2008 and M.P. No's. 1 and 1 of 2008

D. Manoharan, M. Devendran and S. Mohana

APPELLANT

Vs

The Superintending Engineer, Basinbridge, TNEB and The  
Executive Engineer, Transmission Line Construction, TNEB

RESPONDENT

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**Date of Decision :** 20-07-2009

**Acts Referred:**

**Citation :** (2009) 07 MAD CK 0358

**Hon'ble Judges :** S. Rajeswaran, J

**Bench :** Single Bench

**Advocate :** S.T. Varadarajulu, for the Appellant; A. Selvendiran, for the Respondent

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## **Judgement**

S. Rajeswaran, J.—The prayer in all the writ petitions is for issuance of a writ of mandamus to direct the respondent to remove the HT power line and pillars, unathorizedly erected on the petitioner plot Nos. 658, 659 and 656 in Survey No. 183/3 situated at Sri Kamatchiamman Nagar, V phase, Irunkattukottai, Sriperumandur Taluk, Kanchipuram District.

2. Since the issue involved and the relief sought for is one and the same in all the writ petitions, a common order is being passed.

3. The petitioners were employees of the Metropolitan Transport Corporation, Chennai and they retired from service in November 2006 and 2007. While they were in service, they purchased housing plots during 1982 and 1983 and registered at the Sub Register Office, Sriperumandur. The plots are measuring one ground and 901 sq. ft. and one ground and 2400 sq. feet with specified boundaries. The petitioners were planning to construct houses thereon. To their surprise, they found that the Electricity Board without any notice to the petitioners erected poles and high power lines in their lands. When they represented to the concerned Authorities, it was explained to them that it is being done for Sriperumandur construction line. Further they have also erected

two iron pillars in plot No. 58 and another two pillars in plot No. 659 in the middle of the plot to draw the power line. According to the petitioners, the raising of the pillars on their plots would affect the construction in their plots. Further, more than 20 feet breadth and 1 k.m. length vacant land belonged to Irunkattukottai Panchayat Union is very much available, nearly and without considering the same, the respondent Board has chosen to erect the pillars and draw lines on the lands of the petitioners thereby causing loss to them. Hence the above writ petitions for the above said prayers.

4. This Court on 27.11.2008 while ordering notice to the respondents granted interim order of status quo as on that date and the said order of status is being continued till date.

5. I have heard Mr. S.T. Varadarajulu the learned Counsel for the petitioners and Mr. A. Selvendiran learned Counsel for the respondent Board. I have also gone through the documents available on record.

6. The learned Counsel for the petitioners would contend that without any notice to the petitioners, who are the owners of the plots, the respondent Board have erected the pillars on the petitioners' lands and drawn power lines over their lands resulting in the petitioners not being able to put up any constructions at all in their lands. He also drew my attention to the relevant provisions to show that the respondent Board has to give notice to the petitioners before drawing any line or erecting pillars. Therefore, according to them, the action of the respondent Board in erecting the pillars and drawing lines are illegal and therefore, they sought for a direction to the respondent to remove the pillars erected and lines drawn unauthorisedly.

7. Per contra Mr. A. Selvendiran learned Counsel for the respondent Board would contend that the Electricity Board has power to lay transmission lines on the lands available. Taking into consideration the technical feasibility, the provisions of law and as per the Judgment of this Court it is not necessary to give notice to the parties. Therefore, the petitioners who claims to be the owners of the lands were not given prior notice. Further, at the time of erecting the pillars on the lands, the petitioners could have objected to the same. Having kept quiet for such a long period, the petitioners cannot come at this stage to make their objections when the work has been fully completed and the lines are energised. According to the learned Counsel, the Board is doing such works for the benefit of the public at large and when that is being done, public interest has to prevail upon the private interest. He also referred to an unreported judgment of this Court dated 28.01.2008, to reiterate that no notice needs to be given to the land owners before erecting towers and drawing overhead lines on their lands.

8. While considering the power of the respondent Board, I am of the considered view that though the power of the Board with regard to the erection of towers and drawing of lines on the private property is not disputed, the said power has to be exercised carefully so as to cause less inconvenience to the owners. When

a person is going to be deprived of the optimum use of the property, the Board should have concern and make arrangements to draw or erect in such a way so as to cause minimum inconvenience to the owners of the lands.

9. Therefore, without going into the merits of the matter, I am of the view that the learned District Collector cum Judicial Magistrate being the competent authority should consider and pass appropriate orders in cases of this nature.

10. Hence, I direct the petitioners to approach the District Collector cum Judicial Magistrate in this regard, who will in turn consider the issue in detail, after affording opportunity to the petitioners and the respondents and pass orders on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. Till such time, the order of status quo granted by this Court is to continue.

With the above direction, all the writ petitions are disposed of. No costs. The connected miscellaneous petitions are closed.