

(2012) 11 MAD CK 0199

In the Madras High Court

Case No : W.A. No. 1049 of 2012 and M.P. No's. 1+1+1 of 2012

M/s. Sri Vignesh Yarns Pvt. Ltd.

APPELLANT

Vs

S. Subramaniam Gounder and Others

RESPONDENT

Date of Decision : 16-11-2012

Acts Referred:

Constitution of India, 1950 — Article 14
Electricity Act, 2003 — Section 67, 68
Telegraph Act, 1885 — Section 10, 10(d), 16, 16(1), 17

Citation : AIR 2013 Mad 13 : (2013) 1 LW 170 : (2013) 1 MLJ 56

Hon'ble Judges : M.Y. Eqbal, C.J.; T.S. Sivagnanam, J

Bench : Division Bench

Advocate : R. Muthukumaraswamy, for Mr. B. Vijay in W.A. Nos. 1049 and 1050 of 2012 and Mr. P.S. Raman, for Mr. K. Sukumaran in W.A. No. 1051 of 2012, for the Appellant; AR.L. Sundaresan, for Mr. P. Tamilvel for RR-1, 11 and 13 in W.A. 1049/2012 R-1 to 14 and 18 to 20 in W.A. 1050/2012 R-1 to 6, 9 to 13 in W.A. 1051/2012, Mr. T.R. Rajagopalan for Ms. P. Veena for R-17 and R-18 in W.A. 1049/2012 and R-24 and R-25 in W.A. 1050/2012, Mr. A. Navaneethakrishnan, Advocate General assisted by Mr. S. Venkatesh, Govt. Pleader for R-14 in W.A. Nos. 1049 and 1051 of 2012 and for R-21 in W.A. No. 1050 of 2012, Mr. P.H. Arvind Pandian, A.A.G. Assisted by Mr. S.K. Raameshuwar for Tamil Nadu Electricity Board and Mr. Srinath Sridevan for R-20 in W.A. 1049/2012 and R-21 in W.A. 1051/2012, for the Respondent

Final Decision : Dismissed

Judgement

Hon'ble Mr. M.Y. Eqbal, Chief Justice

1. These writ appeals have been filed against the common order of the learned single Judge dated 24.04.2012 passed in W.P. Nos. 2305 and 2917 of 2012. The writ petitions were filed challenging the impugned order passed by the District Collector, Tiruppur vide Na. Ka. No. 14238/2010/J1 dated 18.07.2011.

2. The case of the writ petitioners was that they are agriculturists residing in Sundakampalayam and Nambiyamplayam Villages of Avinashi Taluk, Tiruppur

District, owning agricultural lands in around their villages. Initially, the Executive Engineer, Transmission Line Construction, Tamil Nadu Electricity Board (TNEB) got approval from the State Government to install towers for transmitting High Voltage Electricity through their lands situated in S.F. Nos. 275/1, 2, 274/2, 268/1A, 263/2, 212/3, 211/1A, 1B, 207/1D, 206/1A1, 1B2, 204/1, 204/6, 267/7, 170/1, 98/2, 84/1, 2, 83/1, 78/4, 5, 6, 7, 176/1B, 178/1, 179/2, 3, 180/1, 3 and 410/1 & 2 at Nambiyampalayam Village, Avinashi Taluk. But, suddenly in the month of June, 2010 the officials of the Board started surveying the lands of the writ petitioners for altering the electricity line route, to which the writ petitioners objected. At that time, the officials of the Board assured the writ petitioners that they will continue with the originally approved route for transmitting electricity. Since false rumours spread that the writ petitioners have consented for erecting electricity transmission lines through their land, in the public hearing held on 22.07.2010, they registered their strong objection for transmitting electricity through their lands. They also sent their separate representations dated 23.07.2010 to the officials of the Board objecting the change in the route for transmitting electricity. Since, there was no response from the officials of the Board with respect to their objections, they preferred W.P. Nos. 20666 to 20678 of 2011 seeking a direction to consider their representations dated 23.07.2010. The said writ petitions were closed on 24.01.2012 with liberty to the writ petitioners to challenge the impugned order dated 18.07.2011 passed by the District Collector, Tiruppur.

3. The writ petitioners challenged the impugned order on the ground that the District Collector had no jurisdiction to decide the route for installation of the transmission lines and that the District Collector, before deciding on an alternative route, has not taken note of the technical recommendations of the experts on the field. According to them, the impugned order directing installation of the transmission towers through their lands was passed in view of the fact that some other land owners who were affected by the original route had filed a batch of writ petitions viz., W.P. Nos. 9728, 5205, 5206, 5207, 5208, 5209 and 4900 of 2010. The said batch of writ petitions was disposed of on 30.4.2010 with a direction to the Board officials to proceed with the work after getting appropriate orders from the District Collector-cum-Magistrate, Tiruppur under the provisions of the Indian Telegraph Act, 1885. A direction was also issued to the District Collector-cum-Magistrate to pass appropriate orders within 15 days from the date of receipt of a copy of that order. Thereafter, the District Collector, Tiruppur instructed the TNEB officials to study the pros and cons of the alternate route, and it was on the instructions of the District Collector, Tiruppur the officials of the Board surveyed both possible routes and submitted a report inter se with their merits and demerits. In their report, considering the technical aspects, they approved the original route as being more feasible with fewer objections, since it was along side with the existing Panchayat Road. Thereafter, the District Collector conducted a meeting with the land owners as well as the Board Engineers and orally declared that the original route would be followed. However,

before passing the orders in writing, he was transferred and his successor in office viz., the present District Collector, conducted a second meeting with the land owners and issued the impugned order to proceed with the work on the second proposed route, instead of the original route.

4. The writ petitions were opposed by the respondents on the ground that 90% of the work relating to laying of the transmission towers was already completed, and therefore, it will not be in public interest to interfere with the impugned order at this stage. It was next contended that though originally the proposal was not to install the towers through the lands belonging to the writ petitioners, subsequently, it was in pursuance of the orders passed by the High Court and after hearing the parties, the District Collector approved the second route. According to the respondents, the District Collector had exercised his jurisdiction under the Tamil Nadu Electricity Act, 2003 and hence, it was not open to the writ petitioners to now challenge the impugned order, especially when the decision was taken in view of the directions issued by this Court.

5. The learned single Judge, on consideration of the rival submissions and the materials on record, observed that as per Section 16 of the Indian Telegraph Act, the District Collector does not have any authority to alter or frame any route of transmission lines and therefore, the impugned order passed in exercise of such power under Sections 10 and 16 of the aforesaid Act was without jurisdiction. It was also observed that the judgment of this Court which was relied upon by the respondents should only be construed to mean that this Court had directed the District Collector to consider the matter strictly in terms of Section 16 of the aforesaid Act and the Court could not have vested any power with the District Collector which was not available to him under the statute. The learned single Judge observed that the experts in the field having asserted that the original route was the best for the purpose, the impugned order passed by the District Collector was not only without jurisdiction, but also prima facie arbitrary and was an outcome of non-application of mind on the part of the District Collector as to the technical aspects with regard to the erection of the transmission lines. The learned single Judge accordingly allowed the writ petitions and directed the Board to take an independent decision in the best interest of laying down of transmission lines, without reference to the order passed by the District Collector. Challenging the order of the learned single Judge, the present writ appeals two by the fourth respondent and the other by the sixth respondent in the writ petitions have been filed.

6. Mr. R. Muthukumarasamy, learned senior counsel appearing on behalf of the appellants in W.A. Nos. 1049 and 1050 of 2012 assailed the order passed by the learned single Judge on the ground that the main issue to be considered in the writ appeals is whether the District Collector had the jurisdiction, in the given facts of the case, to recommend a possible route for erecting the transmission towers. According to him, pursuant to the orders passed by this Court in the earlier batch of writ petitions, the Board studied the feasibility of alternative

routes and after survey, submitted two possible routes, and the District Collector, by the impugned order, directed the Board to proceed with the second route, which was one of the routes proposed by the Board. From this perspective, the learned Senior Counsel submitted that the order of the learned single Judge holding that the District Collector had no jurisdiction to pass the impugned order on the assumption that he was deciding about the route for laying down the transmission lines on his own was not sustainable in the eye of law. It was further submitted that as a matter of fact, the District Collector had not formulated any route or altered any route and he had merely accepted the second proposed route as suggested by the Board. According to him, in the light of the earlier orders passed by this Court and having regard to the provisions of Section 16 of the aforesaid Act, it was open to the District Collector to agree to implement a particular scheme or not to agree to such scheme. It was submitted that the learned single Judge, after having taken note of this proposition in paragraph 41 of his order, ought to have noted that the District Collector, while disagreeing to implement the original proposal, agreed to implement the second proposal submitted by the Board and the impugned order was only a result of such a decision taken by the District Collector. Learned Senior Counsel submitted that though the Supreme Court, in *M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others*, had upheld the earlier decision of this Court, it had observed that the technical aspect as to whether an order passed by the District Collector was one u/s 16 or 17 of the aforesaid Act was being kept aside in order to arrive at a practical solution and therefore, it cannot be said that the Supreme Court had upheld the order of the District Collector as one exercised u/s 17. According to the learned Senior Counsel, the District Collector was well within his power to pass the impugned order u/s 16 of the Act, as he had simply approved one of the two proposals submitted by the Board, which was perfectly valid in terms of the scheme of Section 16 of the Act. The Board, having accepted such recommendation, has also gone ahead in implementing the same and since 90% of the work had already been completed, the Board prayed for dismissal of the writ petitions, in public interest and therefore, terming the impugned order as reflecting non-application of mind is unwarranted and unsustainable.

7. Mr. P.S. Raman, learned Senior Counsel appearing on behalf of the appellant in W.A. No. 1051 of 2012 submitted that it was incorrect to say that the decision with regard to laying of the transmission lines under the statute vested only with the Board, and the District Collector was well within his authority to modify, change or alter one or other routes as proposed by the Board, u/s 164 of the Tamil Nadu Electricity Act and even u/s 16 of the Indian Telegraph Act, the Collector has every power to implement the decisions taken u/s 10 of the said Act. The learned Senior Counsel contended that the learned single Judge, having observed that the District Collector has got the power to remove or alter the telegraph lines or posts after their installation u/s 17 of the Act, ought not have allowed the writ petitions on the ground that he has no power to change or alter the route or line for installation of the transmission towers, especially when

power is specifically conferred upon the Collector u/s 17 of the Act to remove or alter the telegraph lines. Learned Senior Counsel, by drawing our attention to the averments made by the Board in its counter affidavit filed before the learned single Judge, emphasized the fact that after studying the feasibility of an alternative route, they suggested two possible routes with their merits and demerits. Based on the Board's recommendation, the District Collector organised a public hearing, in which the writ petitioners had participated. Even when the Collector concerned was transferred, the incumbent again conducted a meeting with the land owners in the presence of the Board officials and thereafter passed the impugned order dated 18.7.2011 to proceed with the work in the second alternative route proposed by the Board, taking into consideration the technical feasibilities and other revenue aspects. In these circumstances, the order passed by the learned single Judge that the impugned order was without jurisdiction, arbitrary and a result of non-application of mind on the part of the District Collector is wholly misconceived. Learned Senior Counsel placed reliance on *M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others*, in this regard.

8. Mr. T.R. Rajagopalan, learned Senior Counsel appearing on behalf of two of the respondents-writ petitioners, while reiterating the case of these respondents-writ petitioners, placed heavy reliance on the judgment of the Division Bench of this Court in the case of *C. Ram Prakash and C. Naren Dharmaraj Vs. Power Grid Corporation of India Ltd.* in support of his case. He strongly relied upon paragraphs 21 to 25 of the said judgment.

9. Mr. AR.L. Sundaresan, learned Senior Counsel appearing on behalf of some of the land owners-writ petitioners submitted that the scheme pertained to the year 2009 and there were no changed circumstances for changing the alignment earlier agreed upon. He drew our attention to the counter affidavit filed on behalf of the Board before the learned single Judge, as also before us, wherein it is specifically stated that pursuant to the order of the High Court in an earlier writ petition, the Board officials approached the District Collector to give permission for studying the feasibility of alternative routes. After due survey, they narrowed in on two possible routes and suggested the same with the merits and demerits of both these routes. The Board submitted its report, however, with an observation that the route originally approved by the Board was more feasible and ought to be taken as it was along the existing panchayat road. In furtherance to the aforesaid report, the District Collector in his public hearing meeting had orally declared that the Board's originally approved route would only be followed. However, upon his transfer, the incoming Collector again called for a meeting, but this time it was ordered that the second alternative route and not the original route would be followed, citing technical feasibilities and other revenue aspects, which resulted in the impugned order. Learned Senior Counsel laid elaborate emphasis on the subsequent change of stance on the part of the District Collector in following the second route, when all along the Board had reported and even the erstwhile Collector had declared that the earlier route was going to be followed. He submitted that the impugned order, therefore, clearly

suffers from mala fides and ought to have been struck down, which was rightly done by the learned single Judge. Learned Senior Counsel took umbrage under paragraph 34 of the judgment of the Supreme Court in *M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others*, where the District Collector granted indulgence to the appellant-company therein for the limited request made on its behalf that the route of the power line be diverted a little in its very lands instead of passing right through the middle, which would cause extensive damage to its poultry farm and accordingly directed the Power Grid Corporation to realign the transmission lines in such a way that they did not pass directly above the poultry sheds of the appellant-company. Learned Senior Counsel, therefore, submitted that such an indulgence could also have been granted in respect of the lands belonging to the respondents-writ petitioners before installing the transmission lines. Learned Senior Counsel contended that under sub-section (1) of Section 16 of the Indian Telegraph Act, the District Collector shall exercise his power only when there is any resistance or obstruction to the exercise of powers of the telegraph authority u/s 10 of the Act or in case of any interference caused by any interested person in the telegraph lines or posts so erected on his/her lands, as contemplated in Section 17 of the Act. According to the learned Senior Counsel, therefore, the District Collector has no say whatsoever in deciding which route ought to be followed and/or recommend any change in the transmission lines, and it is the job solely within the domain of the Board.

10. Mr. P.H. Arvind Pandian, learned Additional Advocate General appearing on behalf of the Tamil Nadu Electricity Board elaborated the procedure followed by the Board for identifying alternative routes for the purpose of installation of the transmission lines. He contended that none of the persons on whose lands the transmission towers have been installed or through which the transmission lines are passing have raised any objection and the lands of the appellants herein are either abutting or away from the lands where the towers have been installed. He placed before us the map in support of his contention that the owner of the land falling in S.F. No. 98 through which the transmission line is passing is not before this Court and the contention of the appellant in W.A. No. 1051 of 2012 that the transmission line is passing through his land is incorrect as the appellant is the owner of the land only in respect of S.F. No. 98/1, whereas the line is passing only through S.F. No. 98/2 and not through the appellant's land, as is sought to be projected. He further submitted that the learned single Judge had taken note of the fact that the Supreme Court in *M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others*, had upheld the order passed by the District Collector as he had exercised the power available to him u/s 17 of the Act and not u/s 16 of the said Act, to alter the transmission lines within the lands of the appellants, and a reading of the aforesaid judgment shows that the Collector had no jurisdiction u/s 16 of the Act to change the route of the transmission. He relied on paragraphs 38 and 41 of the Supreme Court judgment (cited supra) and submitted that the Supreme Court set aside the judgment of the Division Bench of this Court which was under challenge in that case, although they kept aside

the technical aspect raised in the case as to whether the order passed by the District Collector in that case was one u/s 16 or Section 17 of the Telegraph Act, 1885, in order to arrive at a practical solution to the problem.

11. Mr. S. Venkatesh, learned Government Pleader submitted that Section 10 of the Indian Telegraph Act, 1885 authorises the telegraph authority to place and maintain telegraph lines in any immovable property. Section 16(1) of the Act confers upon the District Magistrate/District Collector only a supervisory power, in that it empowers him to ensure that the telegraph authority exercises its powers u/s 10(d) without any resistance or obstruction raised by persons interested in the lands where the telegraph lines are sought to be installed.

12. The main contention of Mr. R. Muthukumaraswamy, learned Senior Counsel appearing for the appellants in W.A. Nos. 1049 and 1050 of 2012 is that in the earlier batch of writ petitions a direction was issued by this Court to the Tamil Nadu Electricity Board to study the feasibility of the alternative routes and it was ordered that the District Collector will take a final decision. In the impugned order of the District Collector dated 18.07.2011, which was the subject matter in the writ petitions before the learned single Judge, the District Collector has also mentioned that this Court in the writ petitions being W.P. No. 9728 of 2010 and W.P. Nos. 5202 to 5209 and 4900 of 2010 (batch), both orders dated 30.04.2010, has ordered that an opportunity may be given to the petitioners and the officials of the Electricity Board to express their opinion, and to conduct an enquiry upon the same, and thereafter, the District Collector, Tiruppur may pass an appropriate order by exercising his power given to him under the Indian Telegraph Act, 1885 for the purpose of erecting electric poles. Similar contention was made by the learned Senior Counsel appearing for the appellant in W.A. No. 1051 of 2012.

13. At the outset, it is, therefore, necessary to look into the orders passed in the earlier batch of writ petitions.

14. In W.P. No. 9728 of 2010 filed by the appellants in W.A. Nos. 1049 and 1050 of 2012, a mandamus was sought to forbear respondents 2 to 4 therein viz., the authorities of the Electricity Board, from erecting high tension electricity poles and/or laying high tension tower lines over the petitioners land in S. Nos. 170 and 171 in Nambiyampalayam Village, Avinashi Taluk, Tiruppur District. The writ petition was disposed of with a direction to the respondent-authorities to proceed with the work after obtaining appropriate orders from the District Collector/District Magistrate under the provisions of Indian Telegraph Act, 1885. For better appreciation, the order dated 30.04.2010 passed in W.P. No. 9728 of 2010 is reproduced herein below:-

ORDER

This writ petition has been filed for the issuance of a writ of mandamus forbearing the respondents 2 to 4 herein from erecting high tension electricity poles and /or laying of high tension tower lines over the petitioner's lands in

Survey Nos. 170 & 171 in Nambiyampalayam Village, Avinashi Taluk, Tiruppur District, and consequently, direct the first respondent to consider the petitioner's representation dated 02.05.2010 in accordance with law.

2. The petitioners are aggrieved for the erection of tower lines through their land by the fourth respondent and have objected to the same. Since the work is in progress, the writ petition has been filed stating that the respondents have not taken permission to enter upon the property from the District Collector/Magistrate as prescribed by law.

3. Mrs. R. Anitha, learned Additional Government Pleader appearing for the respondent No. 1 and Mr. J. Ravindran, learned counsel appearing for the respondents 2 to 4 state that the District Collector/Magistrate, Tiruppur has been approached by the Board to pass appropriate orders for entering into the property for erecting the tower lines based on the objection by the land owners. The respondents have initiated action as contemplated in the provisions of the Act.

4. The writ petition is disposed of with a direction to the respondents to proceed with the work after obtaining appropriate orders from the District Collector/Magistrate under the provisions of the Indian Telegraph Act. The District Collector/Magistrate is directed to pass appropriate orders within 15 days from the date of receipt of a copy of this order. The petitioners-land owners, as the case may be, are directed to co-operate with the enquiry for prompt disposal of the matters. No costs. Consequently, connected miscellaneous petitions are closed.

15. Similarly, in another batch of writ petitions being W.P. Nos. 5205 to 5209 and 4900 of 2010 a similar prayer was made, and those writ petitions were disposed of on the same day viz., 30.04.2010 by passing the following order :-

ORDER

These writ petitions have been filed for the issuance of a writ of mandamus forbearing the 2nd respondent herein from erecting high tension electricity poles over the petitioners lands in Survey Nos. 78, 83 & 84, 77, 78, 98/1, 84/1 and 98/2 respectively in Nambiyampalayam Village, Avinashi Taluk, Tiruppur District, and consequently, direct the first respondent to consider the petitioners representation dated 08.02.2010 in accordance with law.

2. The petitioners are aggrieved for the erection of tower lines through their land by the fourth respondent and have objected to the same. Since the work is in progress, the writ petitions have been filed stating that the respondents have not taken permission to enter upon the property from the District Collector/Magistrate as prescribed by law.

3. Mrs. R. Anitha, learned Additional Government Pleader appearing for the respondent No. 1, Mr. Jayesh B. Dolia, learned counsel appearing for the respondent No. 2, and Mr. J. Ravindran, learned counsel appearing for the

respondent Nos. 3 and 4 state that the District Collector/Magistrate, Tiruppur has been approached by the Board to pass appropriate orders for entering into the property for erecting the tower lines based on the objection by the land owners. The respondents have initiated action as contemplated in the provisions of the Act.

4. The writ petitions are disposed of with a direction to the respondents to proceed with the work after obtaining appropriate orders from the District Collector/Magistrate under the provisions of the Indian Telegraph Act. The District Collector/Magistrate is directed to pass appropriate orders within 15 days from the date of receipt of a copy of this order. The petitioners-land owners, as the case may be, are directed to co-operate with the enquiry for prompt disposal of the matters. No costs. Consequently, connected miscellaneous petitions are closed.

16. From the aforesaid orders, it is evidently clear that the only grievance made by the petitioners in those writ petitions was that the respondent-electricity authorities have not taken permission to enter upon their property from the District Collector/Magistrate as prescribed by law. It also reveals from the above orders that the work was in progress and the only direction was to proceed with the work after obtaining appropriate orders from the District Collector/Magistrate under the provisions of the Indian Telegraph Act, 1885. The District Collector, however, in his impugned order dated 18.07.2011 proceeded on the assumption that he was directed to conduct an enquiry and to give opportunity to the petitioners and the officials of the Electricity Board to express their opinion with regard to the feasibility of proceeding with the erection of transmission line on the original route so decided by the authorities of the Board. The District Collector further observed in his impugned order that since there were objections for taking electric line and erecting electric poles, the Revenue Divisional Officer has to conduct an enquiry and file a detailed report after making necessary survey. The Revenue Divisional Officer in his report has given his own suggestion as to the land over which the transmission line should go. It was categorically brought to the notice of the District Collector that except the work of erecting 9 power towers in the area of Sundakampalayam and Nambiyampalayam and erection of 400 KV High Voltage electric routes from Mettur to Arasur, all other works leading to erection of power towers on both sides are at the stage of completion. The District Collector was also informed that for the purpose of distribution of electricity to the public, 600 MW capacity power tower is to be erected at Mettur, from where electric supply has to be taken to the sub-station at Karumathampatti having capacity of 400 KV, that the formation of electric route has to be completed by the end of July 2011, and that if the works undertaken at Mettur Thermal Power Station and the works relating to formation of electric routes are not completed, then the TNEB will be forced to a situation of immobilizing its funds to the tune of Rs. 140 crores. In spite of all these facts, the District Collector, Tiruppur has granted permission to the TNEB for the erection of power tower and electricity lines through different route. In our

considered opinion, the District Collector is not vested with such power either u/s 16 or 17 of the Indian Telegraph Act, 1885. Learned single Judge has rightly held that the power of the District Collector is more in the nature of execution of the decision taken u/s 10 of the Indian Telegraph Act, 1885 or under Sections 67 and 68 of the Electricity Act, 2003. We are also of the definite opinion that the District Collector has no authority to change the alignment and to give a new route for transmission of the electricity, especially when the experts of the Electricity Board asserted that the original alignment proposed was the best alignment in the interest of the public at large. It has not been disputed that pursuant to the earlier orders passed by this Court, the Board officials approached the District Collector to give permission for studying the feasibility of the alternative routes, and after due survey, they narrowed in on two possible routes and also suggested the merits and demerits of both of them. The Board, however, asserted before the District Collector that the route originally approved by the Board was more feasible and ought to be adopted as it was along the existing panchayat road. It has not been disputed by the appellants that the District Collector in his public hearing/meeting had orally declared that the Board's original approved route would only be followed. But, in the meantime, the District Collector was transferred and the incoming District Collector again called for a meeting and by passing the impugned order, changed the alignment and directed to follow the second route. That being the position, the incoming District Collector ought to have followed the decision taken by the then District Collector approving the original route.

17. We have perused the counter affidavit filed by the Executive Engineer, Transmission Line Construction, Salem, and the facts stated therein have not been controverted by the appellants. It is seen that the Tamil Nadu Electricity Board proposed to erect a new 400 KV Double Circuit line from the newly constructed 600 MW capacity at Mettur Thermal Power Station Stage-III to Arasur 400 Sub Station to evacuate the electric Power supply, which is to be generated from MTPS Stage-III. The scheme was approved by the Government of Tamil Nadu by Notification dated 02.10.2009, and there was no objection to such Notification. The entire route length of 110 Km with 324 Nos. supporting towers and the work commenced during January, 2010 and was scheduled to be completed by October 2011. It has been further stated that all the works are completed except for nine towers between AP 171/0 to AP 174/0, which are proposed in Nambiyampalayam and Sundakkampalayam areas near Avinashi. At that stage, the work was delayed due to objections raised by certain land owners. About seven land owners filed writ petitions before this Court being W.P. Nos. 9728 of 2010 ect. Batch, which was disposed of giving certain directions. In the earlier part of this order, we have extracted the directions issued in those cases. By virtue of the said directions, the Electricity Board was directed to proceed with the work after obtaining appropriate orders of the District Collector/Magistrate under the provisions of the Indian Telegraph Act and the District Collector was directed to pass appropriate orders within fifteen days. In terms of

the directions, the Tamil Nadu Electricity Board requested permission from the District Collector, Tiruppur, to enter upon the land to enable them to proceed with the work. The District Collector issued directions to the officials of the Electricity Board to study the feasibility of an alternate route and survey was also conducted, pursuant to which a proposal was submitted in respect of two possible routes with merits and demerits of both the routes. The Electricity Board took a definite stand that considering the technical aspects, the original route which was approved by the Board was more feasible as the route was to be taken along the existing Panchayat road. Thereafter, meeting was convened between 17.5.2011 and 19.5.2011 and the land owners as well as the officials of the Electricity Board participated in the discussion and it is stated that it was orally agreed that the original route will be adopted. However, in the meantime, the said District Collector was transferred and another officer was posted in his place, who is said to have conducted meetings with the land owners and the Engineers of the Board on 04.07.2011 and 05.07.2011 and he has passed an order on 18.7.2011 to proceed with the work in the second alternate route instead of the original route which was found to be more feasible by the Board as the route was along the existing Panchayat road. When the Electricity Board attempted to implement the order passed by the District Collector dated 18.07.2011, objection was raised by the land owners. This gave rise to the filing of Writ Petitions which are the subject matter of these Writ Appeals.

18. As we have observed earlier, as per the scheme of the Act, the District Collector was not empowered either u/s 16 or Section 17 of the Indian Telegraph Act to decide upon the route and his power was more in the nature of execution of a decision taken u/s 10 of the Act or u/s 67 or 68 of the Electricity Act, 2003. Therefore, when the experts namely the officials of the Board took a definite stand that the original route which was proposed was technically more feasible and it would be in the interest of the public, since the route was along the existing Panchayat road, we find there is absolutely no justification for the Collector to pass an order on 18.7.2011 to change the route which was not found to be technically feasible by the experts. Further, the entire work has been completed except for nine towers and at that stage it would be improper for the District Collector to alter the route, and adopt an alternate route which was found not technically feasible. It is stated that the expenses incurred so far is about Rs. 150 crores for erecting lines, apart from Rs. 3,000 crores which was spent for construction of the new Thermal Power Plant at Mettur and the power which has to be evacuate through its supply line is to provide uninterrupted power supply to both agriculture and industrial development. Therefore, by virtue of the delay, the power line could not be erected on time though the Power Plant was ready to generate about 600 MW power by the end of March, 2012.

19. The learned Senior counsel for the appellant, in support of his submissions placed reliance on the decision of the Hon"ble Supreme Court in M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others, In the said case, the appellant was a Private Limited Company engaged in the business of Poultry

Farming. The Power Grid Corporation of India Ltd., took up the work of construction of 400 KV power line for evacuation of power from the Neyveli Thermal Station Expansion Project. The transmission towers were required to be installed in various locations and some of which were to be placed in the patta lands of the appellants where the appellants were running Poultry Farm. Based upon opinion obtained from the Department of Animal Husbandry, stating that on account of the emission of electro-magnetic fields from the high voltage transmission lines passing over the poultry sheds, it would adversely affect the performance and health of the birds in the long run, the appellant therein made a request for realignment of the transmission line so that either the Poultry sheds could be avoided or the height of the tower could be raised. Therefore, the appellant wanted a small deviation of the route of the power line in the eastward directions, within his lands, so that minimum damage was effected to the poultry farm. The Power Grid Corporation submitted that no deviation was feasible. The District Collector/Magistrate conducted a spot inspection and suggested slight shift in the alignment of power line either westward or eastward, so that the transmission line does not pass above the Poultry shed of the appellant. This was challenged by one R. Chellappan who was the respondent before the Supreme Court, by filing a Writ Petition before this Court. The Writ Petition was dismissed and as against which an Appeal was filed before the Division bench and the Appeal was allowed and the Division Bench held that there is no power for the District Collector to direct change of alignment. Challenging the said order, the Poultry Farm filed an Appeal before the Supreme Court. The main thrust of challenge before the Supreme Court was with regard to the jurisdiction of the District Magistrate to direct change of alignment of a transmission line u/s 16 of the Telegraph Act. The respondent therein contended that the District Collector/Magistrate has no power to change the alignment. The State of Tamil Nadu took a stand that the erection of towers for carrying the transmission line was for the benefit of the public at large who stood to benefit from the energising of the target area for the improvement of the lot of the people of the area. It was also pointed out that the appellant had no objection to the power transmission line being taken over its lands and the District Collector had taken into consideration the limited request made on behalf of the appellant company that the route of the power line be diverted in the eastward direction within the limits of its lands instead of passing through the middle of the said lands. The Supreme Court on considering the rival submissions, held that a balance will have to be achieved between the appellant's grievance and both the technical as well as technoeological feasibility of altering the route of the transmission lines in keeping with the directions given by the District Collector. Therefore, the Supreme Court keeping aside the technical aspect of the matter as to whether the order passed by the District Collector was one u/s 16 or Section 17 of the Telegraph Act, 1885, in order to arrive at a practical solution to the problem, the Power Grid Corporation accepted the alternate suggestion made on behalf of the appellant Company and raised the height of the lower point of sag of the transmission lines between the two towers. Accordingly, on the facts of the said case, a direction

was issued to the Power Grid Corporation to increase the clearance indicated so that it may not affect the appellant's Poultry Farm.

20. Thus, from the facts which was the subject matter of the said decision, it is evidently clear that the same cannot be made applicable to the facts and circumstances of the case on hand. Further, in the instant case there was no direction to the District Collector to examine as to whether which route was more feasible. In fact it has been pointed out that initially the District Collector after holding discussions was of the firm view that the original route planned by the Board was more feasible as it passes along the existing Panchayat Road. Therefore, in our view the alternate route if adopted would be against public interest. Further, the order passed by the District Collector dated 18.07.2011, does not assign any reasons as to why the transmission line should not pass through the original route. Though the Collector has narrated the contention of the land owners and the view of the Electricity Board, in the penultimate portion of the order has altered the route. No reasons have been assigned as to why the original route should not be adopted. Thus the order of the District Collector apart from being without jurisdiction is also vitiated for not assigning reasons which would offend Article 14 of the Constitution of India.

21. Apart from that, it is also worth to mention here that by reason of the order of the District Collector to follow the second route, the lands of many land owners get affected, whereas by continuing the installation of transmission poles/lines through the original route, it will cross the lands of a very few land owners, and the work could also be completed within the shortest possible time.

22. Learned single Judge has elaborately discussed the provisions of the Indian Telegraph Act, 1885 and the Electricity Act, 2003 vis-a-vis the power of the District Collector/Magistrate, and the conclusion arrived at by the learned single Judge, in our view, needs no interference. However, we are of the view that the learned single Judge is not correct in again sending the matter back to the Electricity Board to take a decision independently in respect of erecting transmission lines, without reference to the order passed by the District Collector. In our view, the learned single Judge ought to have directed the Electricity Board to proceed with the completion of erecting transmission lines through the original route and complete it as expeditiously as possible. For the reasons aforesaid, we do not find any merit in these appeals, and accordingly, all the appeals are dismissed. The Electricity Board is directed to proceed with the work of erecting High Power Transmission Lines through the original route and complete the same as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are also dismissed.