

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE
BENCH AT CHENNAI**

Original Application No.220 of 2021

K. Jayakumar,
S/o. S.Kalitheerthan

...Applicant

-Vs-

1. Ministry of Environment, Forest and Climate Change, rep. by its Joint Secretary
2. The State of Tamil Nadu rep. by its Principal Secretary
3. The District Collector, Kallakurichi District
District Collectorate complex
Kallakurichy – 606 202
Email: collr-kki@gov.in
Phone No. 04151-222000
4. Principal Chief Conservator of Forest
No.1 Panagal Building, Jeenis Road
Saidapet, Chennai – 600 015
Email: tnforest@tn.nic.in
Phone No.044-24348059
5. District Forest Officer,
Villupuram Forest Division
Collectorate Master plan campus,
Near Circuit House,
Villupuram – 605 62
Email: dfo.vpm@tn.gov.in / dfovpam@yahoo.com
Phone No. 04146-290744
6. Power Grid Corporation of India Ltd.
rep. by its Senior Deputy General Manager,
Attur TLC Office
M-463, New Housing Board,
Narsingapuram (PO) Athur – 636 108
7. Power Grid Corporation of India Ltd.
Southern Regional office,
rep. by its Executive Director,
Near RTO Driving Test track,


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 वरिष्ठ डप महाप्रबंधक / Senior DGM
 पावरग्रिड / POWERGRID,
 करूर- 639 111 / KARUR - 639 111.

Singanayakanahalli,
Yelahanka Hobli,
Bengaluru – 560 064

8. Power Grid Corporation of India Ltd.
(Corporate office)
rep. by its Managing Director
Saudamini, Plot No.2,
Sector 29, Near IFFCO Chowk,
Gurgaon (Haryana) – 122 001

...Respondents

REPORT FILED ON BEHALF OF RESPONDENTS 6 TO 8- Power Grid Corporation of India Ltd.

1.It is submitted that the above Original Application has been filed before this Hon'ble Tribunal directing Power Grid Corporation of India to re-route the power transmission lines or other installations in pursuance of construction of 400 kV D/C Pugalur HVDC Transmission line avoiding the lands of the Applicant in Survey Nos.126/5A, 5B, 6A, 6B, 7,8,9 in Patta 56 and adjoining lands in Sadaiyampattu Village in Kallakurichi Taluk and District. The Original Application has been filed on the premise that the process of laying of the transmission line would cause damage to the trees, more particularly Rosewood trees and other trees such as teak, Mahogany etc.,

2. It is submitted that on 01.11.2021, when the Original Application was taken up for hearing, it was submitted before this Hon'ble Tribunal that the 400 kV Double Circuit Pugalur-Thiruvalem line, a public purpose project, has already been commissioned & dedicated to the Nation on 23.10.2021. It was also submitted before this Hon'ble Tribunal that no trees in the Applicant's land in Survey Nos.126/5A, 5B, 6A, 6B, 7,8,9 were cut during the execution of the works. On that basis, this Hon'ble Tribunal directed the Corporation to submit


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a report. In terms of the directives issued by this Hon'ble Tribunal, the same is filed herewith for consideration of this Hon'ble Tribunal.

3. It is submitted that Power Grid Corporation of India Ltd., is a "Govt. of India Enterprise", under the aegis of the "Ministry of Power". It is a Corporation of national importance incorporated as a "Government Company", under the provisions of the Companies Act, 1956, and is established with a view to develop an efficient Power Transmission System Network and is responsible for planning and coordination of inter-state transmission system and also responsible for establishment and operation of the Regional and National Power Grids, to facilitate transfer of power within and across the regions and is a Deemed Transmission Licensee.

4. It is submitted that this Respondent Corporation is empowered under the provisions of the Electricity Act, 2003 (hereinafter referred to as the Electricity Act) and the Indian Telegraph Act, 1885 (hereinafter referred to as the Telegraph Act) to place and maintain Power Transmission Towers and to draw Power Transmission Lines under, over, along or across, and posts in or upon, any immovable property. Further, the aforesaid statutes, provide for the manner of removal of resistance/ obstructions coming in the way of exercise of the powers conferred. The relevant provisions of the aforesaid enactments are discussed hereunder:

- a. *Section 68(1) of the 'The Electricity Act, 2003', relates to prior approval for the Overhead Transmission Line Project.*


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- b. As per Sec.164 of 'The Electricity Act 2003' the Appropriate Government may by order in writing for the placing of electric lines or electrical plant for the transmission of electricity confer upon the 'Licensee' any of the powers which the Telegraph Authority possesses under the Indian Telegraph Act 1885.
- c. The Government of India in exercise of powers conferred under Sec. 164 of 'The Electricity Act 2003' had passed an Order dated 24.12.2003, vide Gazette of India No.1148 authorizing this Respondent Corporation to exercise all powers vested in the Telegraph Authority under part III of the Indian Telegraph Act, 1885, in respect of Electrical Lines and Electrical plants established or maintained, or to be so established or maintained for Transmission of Electricity or for the purpose of Telephonic or Telegraphic communication, necessary for the proper co-ordination of the works.
- d. Part III of the Indian Telegraph Act, 1885, relates to power to place Telegraph Lines and Posts. Under **Section 10 thereof**, the telegraph authority may, from time to time, place and maintain telegraph lines under, over, along or across, and posts in or upon, any immovable property, provided that (a)
 (b) the Central Government shall not acquire any right other than that of **USER ONLY** in the property under, over, along, across, in or upon which the Telegraph Authority places any Telegraph Line or Post, and (c), and (d) in the exercise of the powers conferred by Section 10, the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any



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property other than that of local authority, it shall pay compensation, to all persons interested, for any damage sustained by them by reasons of exercise of those powers.

Section 11 empowers the telegraph authority at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, to enter on the property under, over, along, across, in or upon which the line or post has been placed.

- e. Under Section 16 (1) of the Telegraph Act "if the exercise of the powers mentioned in Section 10 in respect of property referred to in Clause (d) ((i.e) private property) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

5. It is submitted that the statutory provisions, referred to supra, clearly empower this Respondent Corporation to place and maintain Power Transmission Lines under, over, along or across and posts/towers in or upon any immovable property. For the said purpose this Respondent Corporation **need not acquire any right other than that of User Only in the property** under, over, along or across, in or upon which this Respondent Corporation places its Transmission Lines or Posts/Towers and if its exercise of powers over the private lands is resisted or obstructed, then the jurisdictional District Magistrate is the appropriate authority/forum for removal of obstructions and permitting this Respondent Corporation to proceed with the works.


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6. It is submitted that while fixing the transmission line route, only the most techno-economically feasible route is chosen causing least damage after complying with the statutory clearances. The transmission line takes the most techno-economically feasible route avoiding places of inhabitation, worship and available corridors to the maximum possible extent taking into account various parameters such as:

- a. Minimal impact on the environment
- b. Avoiding inhabitant area to the extent possible
- c. Crossing the EHT line at an angle as close to 90 degree
- d. Crossing the National Highways at an angle as close to 90 degrees etc
- e. Avoiding places of worship etc.
- f. Avoiding Natural water bodies and Parks, etc
- g. Most techno-economically feasible route.

It is further submitted that this Respondent Corporation executes its projects following the procedure as below described:

- (i) A Straight line called "BEE LINE" is drawn from point to point (i.e) sending end substation to receiving end substation.
- (ii) POWERGRID Engineers go along the 'BEE LINE' as nearly as possible, avoiding settlements, Railway line, Road crossing, River, Forest etc. (That is, a walk over survey is conducted).


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- (iii) Propose three alternate routes to find out which is the most economically and technically feasible route (During this process, approximate Angle points are also fixed using Global Positioning System (GPS)).
- (iv) The above exercises are shown in Topographical Maps issued by Survey of India.
- (v) The next stage is whatever is there in the Map is transferred to the ground viz., marked in the ground.
- (vi) The angle points are fixed on ground by using Global Positioning System (GPS) instruments.
- (vii) A Detailed survey is conducted. For every 20 meters, ground level measurement is taken & Geographical details are collected and line peg mark fixed.
- (viii) A profile is made on the above details. Normally, the space between two towers is 400 meters. The span will depend on the ground level, road, railway track, river and settlements and technical aspects.
- (ix) Then the tower schedule is prepared.
- (x) On due approval of the above, check survey is done.
- (xi) Exact tower point is fixed with the help of survey instrument. [*It is only at that stage, we know the exact survey number over which the tower is to be located*].


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(xii) After fixing the tower location, the details as to the ownership/details of owners of affected lands are obtained from the revenue authorities.

7. It is submitted that this Respondent Corporation has been entrusted with the task of construction /execution of following scheme/s-

(I)Raigarh-Pugalur 6000 MW High Voltage Direct Current (HVDC) system;

(II) Associated 400 kV High Voltage Alternating Current (HVAC) system strengthening at Pugalur end, and

(III)Pugalur-Trissur 2000 MW VSC based High Voltage Direct Current (HVDC) system-

under prior approval of Ministry of Power, Central Electricity Authority-Government of India under Ref. No. 52/11(PGCIL)/2015-PSP&PA-II/251-252 dated 29/09/2015 (and subsequent amendment dated 18.02.2016) as per Section 68(1) of the Electricity Act, 2003.

8. It is further stated that the Raigarh-Pugalur 6000 MW HVDC system with a 800 kV HVDC Transmission Line without any tapping in between connecting Raigarh in the State of Chhattisgarh and Pugalur in the State of Tamil Nadu was conceived in order to facilitate evacuation and transfer of power from various Generation plants located in the state of Chhattisgarh state which passes through Chhattisgarh, Maharashtra,


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Telengana, Andhra Pradesh and Tamil Nadu. The total cost of the project is about Rs.21,735 crores.

9. Under Scheme I of the project, \pm 800 kV Bi-pole HDVC link connecting Raigarh (Chhattisgarh) HVDC Station and Pugalur (Tamil Nadu) HVDC Station, the line length is 1,765.04 KMs directly connecting both the HVDC Terminal having capacity of 6000 MW. Out of 1,765.04 KMs, 345 Kms passes through the State of Tamil Nadu.

10. Under **Scheme II, AC (Alternating Current) system strengthening, there are 5 double circuit 400 KV HVAC lines connecting Pugalur, Arasur, Udumalpet, Thiruvalem, (POWERGRID) and Edayarpalayam (TANTRANSCO) Sub-stations.** Scheme III of the project pertains to Pugalur to Trichur 2000 MW VSC based HVDC system. Under the above said Schemes, major beneficiary is the State of Tamil Nadu. Under the proceedings dated 24.09.2015, approval under Section 68 of the Electricity Act, 2003 was accorded in relation to the above said project comprising all 3 schemes. It is submitted that Raigarh-Pugalur HVDC line along with terminal stations have been commissioned on 14.05.2020.

11. As stated in the preceding paragraph, under Scheme II, AC system strengthening, there are 5 double circuit 400 kV HVAC lines connecting Pugalur, Arasur, Udumalpet, Thiruvalem, (POWERGRID) and Edayarpalayam (TANTRANSCO) Sub-stations and the beneficiary is the State of Tamil Nadu. The Raigarh-Pugalur HVDC line along with terminal stations have been completed & dedicated to the nation on 06.09.2020

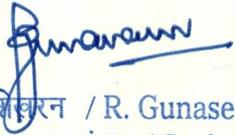

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and all the 5 Double Circuit 400 kV HVAC Lines have also been completed & dedicated to the nation - Pugalur-Pugalur(New) & Pugalur-Arasur Transmission Lines on 06.09.2020 and Pugalar- Edayarpalayam & Edayarpalayam-Udumalpet Transmission Lines on 13.07.2021 and Pugalur HVDC-Thiruvalem Transmission line on 23.10.2021.

12. As stated supra, it is submitted that the **Pugalur HDVC Station - Thiruvalem 400 kV (quad) Double Circuit Line under Scheme II** which is the subject matter of present application with a line length of about 391.237 KMs comprising of 1110 towers has already been completed in all respects and commissioned & dedicated to the Nation on 23.10.2021.

13. It is submitted that no tower is erected in the lands belonging to the Applicant. The transmission line connecting tower location No. T144/4 and T144A/0 at a length of 134 meters passes through the lands belonging to the Applicant. It is stated that there are 756 Nos. (less girth) of trees such as Teak, Rosewood, Mahogany, Vengai and other trees. It is submitted that during October 2020, when this Respondent intended to proceed with the stringing works in the line corridor in the above said location, the Applicant's brother stopped the works citing that the trees would be damaged. This Respondent also pursued the matter with the 3rd Respondent and requested for providing revenue and police support to execute the stringing works.

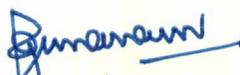
14. It is submitted that in the meanwhile, the Applicant agreed to do the tree enumeration in his land and asked this Respondent to get the assessment of trees from the Forest Department. The tree enumeration


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was carried out in the presence of the Applicant and a request was made to the 5th Respondent to forward the valuation report for the above trees by the communication dated 07.12.2020. By the proceedings dated 22.12.2020, the 5th Respondent furnished assessment report for a sum of Rs.4.18 crores. It is submitted that since the rates of the trees were assessed based on the futuristic girth, by the letter dated 07.01.2021, this Respondent requested the 3rd Respondent to review the valuation report provided by the 5th Respondent. By the letter dated 15.03.2021, this Respondent requested the 5th Respondent to revise the valuation of trees under forest category based on the present status of girth in order to cut and pay compensation to the land owner.

15. It is submitted that by the letter dated 16.04.2021, the 5th Respondent expressed his inability to provide valuation for the forest trees standing in the land belonging to the Applicant on the basis of the opinion obtained from the Additional Advocate General of Tamil Nadu who had opined that the power to grant permission by the prescribed authority is only in respect of dead or fallen Rosewood trees and that the District Forest Officer cannot grant permission for cutting the Rosewood trees in exercise of powers under the Tamil Nadu Rosewood Trees (Conservation) Act, 1994. It was opined by the Additional Advocate General that Rosewood is a rare endangered species and that Act was promulgated with view to prevent felling of Rosewood trees.

16. It is submitted that in view of the above, technical feasibility was studied and considered in order to avoid cutting/damaging/lopping of the Rosewood trees in the lands belonging to the Applicant. However though


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Section 3 of the **Tamil Nadu Rosewood Trees (Conservation) Act, 1994** may not strictly apply to the lands under reference as these are private Patta lands & not forest / forest Lands and does not fall within the definition of "Forest". "Forest" as per Tamil Nadu Rosewood Trees (Conservation) Act, 1994 includes waste or communal land containing trees, shrubs and roads, pasture land and any other class of land declared by notification by the Government to be a forest.

Explanation: - for the purposes of this clause "communal land means"-(i) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels (ii) Threshing-floor, cattle-stands, village-sites and other lands which are set apart for the common use of the villagers. **Further, even under the Tamil Nadu Timber Transit Rules 1968**, prior permission of District Forest Officer concerned is required to fell any scheduled tree from the private land only if the out turn of timber is likely to exceed 0.50 cubic meter. Only 15 days prior intimation to DFO may be required.

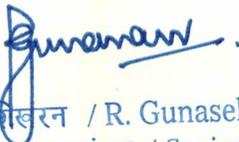
The technical study revealed that in order to avoid cutting of the trees more particularly, the Rosewood trees, one more tower with a span of 177 meters from T144/4 has to be installed in the span T-144/4 – T144A/0 in the same alignment to increase the height of the conductor, thus not interfering with the Rosewood Trees and to maintain adequate electrical clearance from the conductor. The height of the conductor will be at 30 meters above across the land which is 15 meters higher than normal condition.

17. It is submitted that on 13.05.2021, a letter was addressed to the 3rd Respondent indicating the technical requirement of an additional tower to


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avoid cutting of Rosewood trees. It is submitted that while spotting the additional tower, it fell over the land comprised in S.No.122/2, Sadayampatti Village, Kallakurichi Taluk and District belonging to one Mrs.Malarkodi. Vide letter dated 13.05.2021, this Respondent informed Mrs.Malarkodi about the installation of tower in her land. However, the land owner initially objected to the same. Under the above circumstances, this Respondent approached the 3rd Respondent under Section 16 of the Indian Telegraph Act, 1885 for removal of obstructions. Enquiry was conducted by the 3rd Respondent on 05.07.2021 and 21.07.2021 and by the proceedings dated 03.08.2021, the 3rd Respondent issued enter upon orders and Mrs. Malarkodi has consented & taken a compensation of Rs._18,05,625/- towards foundation works and Rs. 11,45,000/- towards erection works.

18. It is submitted that pursuant to the above, enter upon permission order dated 03.08.2021, an additional tower was installed at Location No.T144/5 at a cost of Rs.70.00 lakhs on 19.09.2021 & a compensation of Rs.18,05,625/- towards foundation works and Rs.11,45,000/- towards_ erection was paid to Mrs. Malarkodi, the owner of the Land, over which the new/ additional tower has been installed. Consequent upon the installation of the additional tower, the transmission line crosses over the land belonging to the Applicant at a height of 17.5 meters above the standing trees and the same shall not affect or cause damage to the existing trees. It is submitted that as per the guidelines dated 05.05.2014, issued by the Ministry of Environment and Forest, minimum clearance of 5.5 meters between conductor and trees is required to be maintained at


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any point of time for preventing electrical hazards. In the instant case, clearance of 17.5 meters over and above the existing trees is maintained and as such there is no possibility of fire or danger to the standing trees in all rainy seasons. Prior to the same, on 21.08.2021, the Applicant addressed a representation to the 3rd Respondent apprehending that around 300 Rosewood trees would be required to be cut in the process of laying the transmission line. By the communication dated 28.09.2021, the above said fact was informed to the Applicant by the 3rd Respondent. The said communication has been filed by the Applicant in the Additional typed set of papers in the present Original Application.

19. It is respectfully submitted that in view of installation of an additional tower in Location No.T144/5, the transmission line crosses over the land belonging to the Applicant at a height of 17.5 meters above Rosewood trees which is more than the prescribed minimum statutory clearance of 5.5 meters. The additional tower was installed in order to avoid cutting of the standing trees in the Applicant's lands. It is submitted that no trees were cut or damaged in the Applicant's land while carrying the stringing works consequent upon installation of additional tower with a span of 177 meters from T144/4.

20. It is submitted that Rosewood trees grows at a slow pace and attains a height of 20 meters and a moderate girth of 200 centimeters over three to four decades. In view of sufficient statutory clearance being maintained as stated supra, no damage will be caused to the Rosewood trees. The Applicant has laid the present case before this Hon'ble Tribunal on the premise that even if the height of the cable lines is increased, it would


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damage the trees, more particularly Rosewood trees. The apprehension expressed by the Applicant is unfounded and baseless. Likewise, no damage will be caused to the teak and Mahogany trees as sufficient clearance is maintained between the conductor and the trees. Mahogany trees take 25 years to take full maturity and it takes 25 years for teak to grow into mature tropical tree.

21. As directed by this Hon'ble Tribunal, the photographs showing the installation of additional tower in Location No.144/5 is filed herewith along with the report for the perusal of this Hon'ble Tribunal. This Hon'ble Tribunal is also filing the Google map indicating the installation of an additional tower in Tower Location No.144/5.

22. It is respectfully submitted that the route alignment has been finalized on the basis of techno economical feasibility. As already stated supra, Pugalur HDVC Station – Thiruvalem 400 kV (quad) Double Circuit Line, the subject matter before the Hon'ble Tribunal has been completed in all respects and the line was charged / commissioned & dedicated to the nation on 23.10.2021. The relief sought for in the Original Application to direct this Respondent to re-route the power transmission lines or to explore and examine all available alternate option with regard to the construction of power transmission cable is not maintainable.

23. It is respectfully submitted that it has been held in catena of decisions by various High Court including Hon'ble High Court of Madras & Apex Court that the exercise of power by the District Collector in exercise of

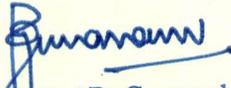

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powers under Section 16 of the Indian Telegraph Act, 1885 is in the nature of execution and that the District Collector cannot suggest for altering the route alignment which is the realm of experts in the field.

24. In the instant case, as already stated the works have been completed in all respects and the transmission line was commissioned and dedicated to the nation on 23.10.2021. It is once again reiterated that while carrying out the stringing works in the tower location No.T144/4 and T144A/0, no trees were either cut or damaged. It is further reiterated at the risk of repetition that consequent upon the installation of additional tower in Location No.T144/5, the transmission line crosses over the land belonging to the Applicant at a height of 17.5 meters and there is no danger to the existing trees including Rosewood trees.

It is prayed that this Hon'ble Tribunal may be pleased to take the report on record and pass appropriate orders and thus render justice.

Dated at Madras this the 22nd day of November 2021


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