

**(2009) 10 MAD CK 0157**

**Madras High Court**

**Case No:** Writ Petition No. 18367 of 2009 and M.P. No. 1 of 2009

Dr. M. Ponnuswamy and M.  
Palaniswamy

APPELLANT

Vs

The Chairman, Tamil Nadu  
Electricity Board, The Executive  
Engineer, Transmission Line  
Construction, The  
Superintending Engineer,  
General Construction Circle and  
Suzlon Infrastructures Ltd.

RESPONDENT

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**Date of Decision:** Oct. 29, 2009

**Acts Referred:**

- Electricity Act, 2003 - Section 14, 2(32), 2(67), 39(1)
- Penal Code, 1860 (IPC) - Section 1(8), 188
- Telegraph Act, 1885 - Section 10, 16, 16(1), 16(2)

**Citation:** (2009) 8 MLJ 803

**Hon'ble Judges:** K. Venkataraman, J

**Bench:** Single Bench

**Advocate:** A. Stalin, for the Appellant; AV.K. Ezhilmani, for R1 to R3 and S.N.  
Kirubanandhan, for R4, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

K. Venkataraman, J.

The petitioners have come up with the present writ petition for mandamus forbearing the respondents from erecting any towers taking high tension wire or line over their property in Survey No. 480/1 situated at Sangothipalayam, Kaniyur Post, Karumatham Patti, Sulur Taluk, Coimbatore District.

2. The short matrix of the matter is set out hereunder:

2.1. The petitioners are the owners of the land in Survey No. 480/1, situated at Sangothipalayam measuring about an extent of 1 = acres. A substation belonging to Tamil Nadu Electricity Board (T.N.E.B) is located at Arasur Village, Sulur Taluk, Coimbatore District. For the past twenty years, electricity is being supplied to Aviniash Taluk and Annur Taluk from this substation. To facilitate the supply of electricity, several towers were erected between the Arasur substation to the concerned taluks. Sangothipalayam is one among the several villages in which towers were erected for the supply of electricity. Construction is in progress to start a "Power Grid Station" at Karumathampatti, Coimbatore District. The Tamil Nadu Electricity Board had decided to supply electricity to the "Power Grid Station" Karumathampatti, Coimbatore from the sub-station, Arasur Village, Sulur Taluk, Coimbatore and therefore it became necessary to have a twelve line transmission system. In the year 2007, T.N.E.B. built several concrete structure to erect the towers towards the left side of the existing towers.

2.2. In May 2009, the electricity department gave up its earlier proposals and started building new concrete structure for the erection of towers on the right side of the existing towers. Two concrete structures were built on the north and south sides of the petitioners property. No notice was served to the petitioners by the electricity department as the heavy line wires are going to cross over their property. If the high tension wires cross the entire 1 = acres of the land of the petitioners, there will be huge depreciation in the value of the land. The deviation in the route is being made only to benefit a neighbouring land owner.

2.3. The petitioners made objections for the proposed plan of the T.N.E.B and gave representations to the concerned officials on 10.06.2009. Till date there is no response for any of the representations from any of the respondents. However, the respondents have gone about erecting huge towers on the northern side of the property. The petitioners thereafter on 07.08.2009 gave representation to the first respondent requesting him to proceed with the originally allotted route. The respondents however did not give any reply.

2.4. In view of the above stated position, the petitioners have to approach this Court by filing the present writ petition for the relief set out earlier.

3. Counter affidavit was filed on behalf of the respondents 1 to 3 wherein the following facts have been set out.

3.1. In order to draw electrical energy from 400 KV SS of Power Grid Corporation of India Ltd., the TNEB approved to lay 230 KV double circuit line between 400 KV SS of Power Grid Corporation of India Ltd., near Karumathampatty and Arasur 230 KV Sections. The above line route passes through the villages namely Arasur, Kaniyur etc., The approved length of the line is 13.219 kms, supported with 54 Extra High Tension Towers. The formation of the above line route is approved during March

2007 and the work started during June 2007. The scheme was approved by the Board at a cost of Rs. 376.44 Lakhs to avail electricity from other states for the effective supply of electricity to the people of Tamil Nadu. If the scheme is routed through it will clear/improve the low voltage problem, the interruption in power supply and also will cater the growing power demand. The implementation of the scheme is inevitable in the interest of public at large and for the industrial growth.

3.2. The TNEB has not erected Extra High Tension Towers in the petitioners land. Only wires will pass through and there is no harm to agriculture. Utmost care was taken to avoid any damage to the Agricultural lands and to the petitioner's also. The petitioners are not challenging the scheme but are only objecting to the wires passing 50 feet above their land. The route fixed is not made only to benefit a neighbouring land owner.

3.3. Almost 95% of the works have been completed and by virtue of the interim order, the Board and the public of the Tamilnadu are put to irreparable loss and hardship. Further more, the Board is prevented from drawing the electrical energy from the central pool. In view of the same, the Board may not be in a position to meet the deficiency of the electricity for that part of the state of Tamilnadu.

3.4. Thus, the counter affidavit seek for the dismissal of the writ petition.

4. One M/s. Suzlon Infrastructure Ltd., had filed an application to implead itself as fourth respondent in M.P. No. 2 of 2009 and the same was allowed. The fourth respondent has filed an counter affidavit narrating the following facts.

4.1. This writ petition for mandamus is not maintainable for the simple reason that the petitioners have not chosen to challenge the scheme.

4.2. The fourth respondent had invested around 4,500 crores to establish the Industrial Park consisting of 1,500 members / units under the scheme. 1500 members are ready to establish their units and to consume power in the scheme.

4.3. The TNEB as a public utility with public interest in mind has taken up survey works considering the ground realities, clearances, buildings etc., and therefore the petitioners cannot have any grievances in implementing the scheme. Utmost care was taken to minimise the damage to the Agricultural lands and to the petitioner's also. The Scheme was approved by the Board to avail the electricity from the Central pool for the effective supply of electricity distribution in Tamil Nadu. If the scheme is routed through, it will clear/improve the low voltage problem and also will cater the growing power demand. The exercise of the power is procedural and in public interest at large and therefore a separate G.O has been obtained for the main scheme vide GO (MS) No. 1099 Energy (C3) Department dated 09.09.2008. It is not obligatory on the part of the competent authority who has been conferred the power of the telegraph authority u/s 10 of the Telegraph Act to issue prior notice to the owner of the property over which the electricity supply line is proposed.

4.4. The formation of the transmission line involves highly technical features, ground realities, economical considerations and for the improvement of the nation.

4.5. Board has invested huge amount, erected 100% of the towers and 90% of the stringing of the line. At this stage the petitioners have filed this writ petition with untenable grounds. If the petitioners feel that there will be depreciation of the value of their land they can very well approach the District Collector for compensation. However, they have no right to stall the implementation of the scheme.

4.6. With the above averments, the counter affidavit seek for the dismissal of the writ petition.

5. Heard Mr. A. Stalin, the learned Counsel appearing for the petitioners, Mr. AV.K. Ezhilmani, the learned Counsel appearing for the respondents 1 to 3 and Mr. S.N. Kirubanandhan, the learned Counsel appearing for the fourth respondent.

5.1. Except alleging that the respondents have preferred circuitous route instead of a direct route and that there is deviation in the route in order to benefit a neighbouring land owner and that no notice was served on the petitioners for taking heavy line wires crossing over their land, which will cause huge depreciation in the value of the land, no other points were taken in the affidavit in support of the writ petition. However, at the time of the argument the learned Counsel appearing for the petitioners contended that under the Indian Telegraph Act, 1885, if there is any resistance or obstruction by the land owners, the authority concerned shall refer the dispute before the District Magistrate and the District Magistrate concerned shall hear the parties and pass orders.

5.2. In the present case on hand, the petitioners have raised objections for laying live wire in their land and hence the respondents 1 to 3 ought to have referred the matter to the District Magistrate concerned. However, they have not done so and hence, they could not be allowed to lay heavy line wire on their land. In this connection, the learned Counsel appearing for the petitioners relied on the decision of this Court made in W.P. No. 49172 of 2006 etc., batch dated 18.01.2007. He also relied on the decision of the Hon'ble Apex Court made in Civil Appeal No. 3413 of 2009 dated 08.05.2009. By relying on the said judgements, the learned Counsel appearing for the petitioners strenuously contended that when there is an objection by the owners of the land for laying heavy tension line, the authorities concerned shall refer the matter to the District Magistrate concerned and only after the orders are passed by him favouring the department, the heavy electrical line could be laid.

5.3. However, the learned Counsel appearing for the respondents submitted that Section 10 of the Indian Telegraph Act, 1885 (herein after called the Act) contemplates that in respect of the land belonging to the local authority alone, the permission of the said authority is necessary. Regarding the lands owned by individuals, they are entitled only for the compensation as per Section 10 of the Act and hence the contention of the learned Counsel appearing for the petitioners that

permission of the individual owners of the property is necessary before installing electrical line on their property and that the District Magistrate has to be approached for an order, if there is an objection by the land owners are absolutely incorrect.

5.4. Before adverting to the rival contentions, it would be useful to extract Section 10 and Section 16 of the Act:

10. Power for telegraph authority to place and maintain telegraph lines and posts.- The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property:

Provided that:

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;

(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) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any property other than that referred to in Clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

16. Exercise of powers conferred by Section 10, and disputes as to compensation, in case of property other than that of a local authority.- (1) If the exercise of the powers mentioned in Section 10 in respect of property referred to in Clause (d) 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.

(2) If, after the making of an order under Sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence u/s 188 of the Indian Penal Code (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid u/s 10, Clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under Sub-section (3), that amount, and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under Sub-section (3), or Sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

5.5. Considering the rival contention and considering the provisions extracted above, the first question that has to be answered is whether notice is necessary to the land owners before laying high tension line over their lands.

5.6. The above provisions does not indicate that any prior notice is required for erection of the towers or for taking heavy line wire through their property. In that regard, the judgements reported in [E. Venkatesan and others Vs. Chairman, Tamil Nadu Electricity Board, Madras and others](#), and Nithyanandam, M. and 2 Ors. v. The Chairman, Tamil Nadu Electricity Board, Madras and 3 Ors. 1994 WLR 445, will clearly make out that the occupiers or the owners of the land are not required to be served before erecting the towers or taking heavy line wire over their property.

5.7. In the judgement reported in [Bharat Plywood and Timber Products Private Ltd. Vs. Kerala State Electricity Board Trivandrum and Others](#), the full bench of the Kerala High Court has held that no notice is contemplated to the owners of the land u/s 10 of the Indian Telegraph Act.

5.8. Hence, I am of the considered view that no prior notice is necessary to the petitioners before laying the high tension wire over their land.

6. The next contention that has been put forth by the learned Counsel appearing for the petitioners is that when there is an objection for laying High Tension lines by the owners of the land, it is incumbent on the part of the respondents to refer the dispute before the District Magistrate concerned and before the orders could be passed by him the respondents cannot lay the high tension wire over their property. The learned Counsel in this connection relied on the judgement dated 18.01.2007 in W.P. No. 49172 of 2006 and etc., batch. Para 24 and 25 of the said judgement is usefully extracted here under:

24. Section 16(1) of the Indian Telegraph Act clearly speaks of the permission of the District Magistrate when there is a resistance or obstruction to the exercise of power u/s 10. The requirement of the permission from the District Magistrate is clearly stipulated u/s 16. This is not something that the Court introduces, which the legislature did not intend to. In fact, Sub-section (2) of Section 16 makes non-compliance of an order of the District Magistrate by any person a specific offence u/s 188 of the Indian Penal Code.

25. For all these reasons, I am of the opinion that since there are objections to the installation of the transmission towers, the Corporation should have obtained permission from the District Magistrate.

6.1. However, it is contended on behalf of the respondents, that prior permission from the District Magistrate concerned is not necessary. Though, several judgements have been relied on by the respondents in this connection, those are the cases where the order of the District Magistrate concerned was in question except the judgement of Justice P. Jyothimani made in W.P. No. 36566 of 2007 dated 28.01.2008.

6.2. In the above back drop of the matter, it is to be seen where the order of the District Magistrate is necessary as contended by the learned Counsel appearing for the petitioners or that it is not necessary as contended by the learned Counsel appearing for the respondents. Section 10 of the Indian Telegraph Act which has been extracted above shows that the telegraphic authority may place and maintain a telegraphic line on any immovable property, shall not exercise its powers in respect of any property vested in or under the control or management of any local authority. Thus, reading of Section 10(c) of the Act contemplates such permission is necessary only for laying high tension line on the property which is owned by the local authority. No where, u/s 10 it speaks of such permission in respect of the land owned by an individual. Section 10(d) contemplates that the telegraphic authority shall do as little damage as possible when laying a high tension power line and shall pay full compensation to all persons interested for any damage sustained by them by reason of such exercise of powers. The said Section 10(d) does not contemplate any permission of the land owners for erecting high tension wire and it contemplates only payment of compensation, in case of any damage that has been caused to the property.

6.3. Thus, Section 16 of the Act contemplates that in exercising powers u/s 10, namely laying of high tension wire on the property of an individual, if it is resisted or obstructed, the District Magistrate on approach by the telegraphic authority shall pass an order permitting them to exercise the same. Section 10 or Section 16 of the Act does not contemplate the permission from the land owner, where a high tension wire is sought to be laid or it contemplates the telegraphic authority to get permission from the District Magistrate for laying the high tension wire if it is objected by the land owners. The words used in Section 16(1) is "resisted or

obstructed". A mere objection will not require the telegraphic authority to approach the District Magistrate for an order permitting them to exercise their duty. Only in case of resistance or obstruction, such permission is required by the telegraphic authority from the District Magistrate. The permission of the District Magistrate may be necessary, if it is resisted or obstructed by the individual owners since Section 16(2) reads that if the District Magistrate makes an order under Sub-section 1 of Section 16 and if a person resist he shall be deemed to have committed an offence u/s 1(8) of the Indian Penal Code. Thus, co-joint reading of Section 10 and 16 of the Act will amply makes out,

(1) that permission of the land owners are not necessary to exercise their power under the Act.

(2) If there is a mere objection by the land owners, the telegraphic authorities are not required to approach the District Magistrate for an order permitting them to exercise their duty.

(3) Only, if there is resistance or obstruction, permission from the District Magistrate is necessary to carry out the job of the telegraphic authority.

7. When the Act does not provide for any such permission from the District Magistrate, this Court cannot enlarge the scope of the legislation or the intention of the legislature when the language of the provision of the Telegraphic Act is plain and unambiguous. This Court cannot add words to a statute or read words which are not in the Act. In [The Commissioner of Sales Tax, U.P., Lucknow Vs. Parson Tools and Plants, Kanpur](#), and an unreported judgement of the First Bench of this Court in Writ Appeal No. 370 of 2006 dated 17.11.2006 [Sundaram Home Finance Limited, Chennai v. Tahsildar, Hosur and District Collector, Krishnagiri], it has been held in respective decision as follows:

It is not the duty of the Court either to enlarge the scope of the legislation or the intention of the legislature when the language of the provision is plain and unambiguous. The Court cannot rewrite, recast or reframe the legislation for the very good reason that it has no power to legislate. The power to legislate has not been conferred on the courts. The Court cannot add words to a statute or read words into it which are not there. Assuming there is a defect or an omission in the words used by the legislature, the Court could not go to its aid to correct or make up the deficiency. Courts shall decide what the law is and not what it should be. The Court of course adopts a construction which will carry out the obvious intention of the legislature but could not delegate itself. But to invoke judicial activism to set at naught legislative judgement is subversive of the constitutional harmony and comity of instrumentalities.

If the legislature wilfully omits to incorporate something of an analogous law in a subsequent statute, or even if there is a causus omissus in a statute, the language of which is otherwise plain and unambiguous, the Court is not competent to supply the



omission by engrafting on it or introducing in it, under the guise of interpretation, by analogy or implication, something what it thinks to be a general principle of justice and equity. To do so, would be entrenching upon the preserves of the Legislature, the primary function of a Court of law being *jus dicere* and not *jus dare*.

...There is no room for visualizing two such courses of action. This will be reading words into the Section, which the legislature had not used. It is not our duty to legislate.

8. The decision of the learned Justice Prabha Sridevan, relates to the provision in "The works of Licensees Rules, 2006". Section 3 of the said Rules is extracted here under:

3. License to carry out works. - (1) A licensee may:

(a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land;

(b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of any overhead line on any building or land or having been so fixed, may alter such support:

Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State Government in this behalf, for carrying out the works :

8.1. The said rule contemplates that, if the owner or occupier of the building or land raises objections in respect of works to be carried out under the said Rule, permission in writing from the District Magistrate or the Commissioner of Police is necessary. That is why the learned judge in the said decision has held that, if there is an objection the authorities concerned shall approach the District Magistrate for orders.

8.2. In view of the above stated position, I am unable to accept the contention of the learned Counsel appearing for the petitioners that objection has to be taken as obstruction or resistance.

8.3. Justice Jyothimani also came to such conclusion, while dealing with the writ petition which has been filed for mandamus forbearing the respondents from interfering with the peaceful possession and enjoyment of the petitioner's land without due process of law on the ground that the respondent Electricity Board is laying high tension wire without permission from the land owners, distinguished the

judgement of Justice Prabha Sridevan.

8.4. Para 26, 27, 28 is thus usefully extracted here under:

26. An analysis of the order of Prabha Sridevan, J. in W.P. No. 49172 of 2006 etc., batch, dated 18.01.2007 shows that the decision was rendered while dealing with the "Works of License Rules, 2006" which relates to distribution as well as generation of electricity. The said case relates to two projects, viz., (i) carrying out reconnaissance, Preliminary Survey, Detailed Survey, Check Survey and contouring at Tower Locations for 400 KV D.C LILO Line from existing 400 KV S/C Kolar - Sriperumbudur Line to Sub-station at Kalivandapattu (Melakottaiyur); and (ii) the construction of Udumalpet to Arasur 400 KV D/C Power Transmission Line comprising 195 Towers with a length of 65 kilometres, connecting Udumalpet 400 KV Sub-station to Arasur 400 KV Sub-station. Now, it is relevant to see that Section 2(32) of the Electricity Act, 2003 defines "grid", which reads as under:

2(32). "grid" means the high voltage backbone system of inter-connected transmission lines, Sub-station and generating plants.

While dealing with the powers of the said "grid corporation" the learned Judge, by applying Section 16(1) of the Indian Telegraph Act, 1885, has directed the Power Grid Corporation to approach the District Magistrate concerned to deal with the objections raised by the petitioners in each of the said cases, with a further direction to the District Magistrate to consider the objection and pass orders in accordance with law.

27. In the present case, it is crystal clear that the Board acted as the State Transmission Utility as per Section 2(67) of the Electricity Act, 2003 and by virtue of Notification issued by the State Government u/s 39(1) of the said Act, the Board is not engaged in the business of trading of electricity and therefore, it is certainly different from the Power Grid Corporation and in that view of the matter, the above judgement is distinguishable from the facts of the present case. The powers of the Board as "State Transmission Utility" is that of telegraphic authority traceable u/s 10 of the Indian Telegraph Act, 1885 and therefore, in cases of dispute as to compensation regarding the properties, necessarily the procedure u/s 16 of the Indian Telegraph Act, 1885 has to be followed.

28. In any event, on the facts and circumstances of this case, the major point which is urged by the petitioner is that the property was sought to be acquired without following due process of law and by virtue of various judgements, especially relating to the powers of the Board as "State Transmission Utility", there is no necessity to give any notice for the purpose of erection of tower or for making "transmission lines" and therefore, the petitioner is not entitled for the relief as claimed, except the right u/s 10(d) of the Indian Telegraph Act, 1885, which enables the petitioner to get compensation for any damage sustained by him while the Board exercising its powers as "State Transmission Utility" and the compensation is determinable u/s 16

of the Indian Telegraph Act, 1885.

9.1. The learned Counsel appearing for the petitioners further relied on the decision reported in W.P. No. 19676 of 2007 dated 04.04.2008. That is the case where the order of the District Collector was under challenge. Even in the said decision, Justice V. Dhanapalan has held that as per Section 10 of the Indian Telegraph Act, it is not necessary to issue prior notice or get consent from the private land owners and as per Section 10(c), only if the property is vested in or under the control of any local authority, it is necessary for the corporation to get permission from the said authority. Para 11 of the said order is reproduced here under:

11. As per Section 14 of the Electricity Act, 2003, Central Transmission Utility shall be deemed to be a Transmission Licensee and as per Section 164 of the Act, 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 Telegraphic Authority possesses. Accordingly, the Power Grid Corporation has been entrusted with the power to exercise all the powers in respect of electrical lines and electrical plants established or maintained for transmission of electricity or for the proper coordination of work. Further, as per Section 10 of the Indian Telegraph Act, it is not necessary to issue personal notice or get prior consent from the private land owners and as per Section 10(c), if the property is vested in or under the control of any local authority, it is necessary for the Corporation to get permission from such authority.

9.2. But, however the learned judge found that the District Collector has not considered the objections raised by the petitioner there in and hence remanded the matter. Hence, the said judgement also may not be of any use to the petitioners.

10. Yet another decision that has been relied on by the learned Counsel appearing for the petitioners is reported in [M.D., Ramakrishna Poultry P. Ltd. Vs. R. Chellappan and Others](#) . That is the case where the petitioners there on filed writ petition before the High Court, seeking re-alignment of the transmission lines so that his poultry sheds could be avoided or the height of the tower could be raised. The question whether permission to lay the high tension wire is necessary from the District Magistrate or not did not come in for consideration at all. Hence, the said judgement also may not be of any use to the petitioners.

11. Yet another decision that was relied on by the learned Counsel appearing for the petitioners is the full bench decision of the Kerala High Court reported in [Bharat Plywood and Timber Products Private Ltd. Vs. Kerala State Electricity Board Trivandrum and Others](#) . Even, in the said judgement the full bench has held that in case of obstruction or resistance the order from the District Magistrate is necessary. In para 20, it has been clearly stated that, if there is obstruction or resistance, then the telegraphic authority has to approach the District Magistrate for an order. No doubt in para 27, the full bench has said objection taken in any tangible and

identifiable form will constitute resistance. But, however in the case on hand, there was a mere objection on the side of the petitioners and further more as stated already when the language employed in the section is very clear, a more meaning cannot be culled out there so as to interpret in any stated manner as held by the Hon"ble Apex Court which was extracted above.

12. The next contention of the respondents are that when the scheme was framed for the purpose of facilitating quick supply of electrical energy to cater the growing power demand, the same cannot be thwarted on objection by a single land owner. In this connection the judgement made in W.P. No. 19518 of 2009 dated 30.09.2009 was relied on. Para 10, 11 and 12 are usefully extracted here under:

10. The Tamil Nadu Electricity Board in order to stabilize the power supply throughout the state proposed to erect Arasur 230 KV SS Main Scheme, to draw power from the Central Pool proposed 230 Double Circuit line on double circuit towers by framing a scheme. The scheme seems to have been approved by the Board. It is stated that it will clear/improve the low voltage problem, uninterrupted in power supply and also will cater to the growing power demand, besides improving the system stability in the transmission network for the benefit of Tamil Nadu. When such a scheme was framed for the above welfare measures, it cannot be throttled by the petitioner especially in the context that only two towers are to be installed that too in the border of the land of the estate, which is going to be allotted to the members of the petitioner Association.

11. The Hon"ble Apex Court as well as this Court have held that erecting the towers in order to draw high tension lines is vested with the authorities, as contemplated u/s 10 of the Indian Telegraph Act, 1885 and they are empowered to do so in the interest of the public. Nobody can prevent the installation of the high tension lines and there is no necessity also to issue a prior notice to the owner of the property over which the electrical supply line is proposed to be taken.

12. Further, according to the learned Counsel appearing for the 5th respondent, the entire work was completed except laying 3 towers and 2 of which are to be erected in the land belonging to the Estate, which is made for the members of the petitioner association.

12.1. The purpose of the scheme cannot be under estimated. It is for the benefit of the public and it will clear/improve the low voltage problem, un interruption in power supply and also will cater to the growing power demand, besides improving the system stability in the transmission network for the benefit of the Tamil Nadu.

13. The controversies raised in this writ petition is thus answered in the following manner:

(1) No notice is necessary to the land owners before laying high tension wire in their land.

(2) The permission of the land owners for laying high tension wire over and above the land of the petitioners is not necessary and Section 10 and Section 16 of the Telegraph Act does not contemplate so.

(3) Such permission is required only in respect of the land owned by the local authorities.

(4) A mere objection by the land owner does not require authorities to seek permission from the District Magistrate concerned.

(5) Only if there is an obstruction or resistance by the land owners such permission is necessary.

14. In fine the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.