

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

CRP.No. 836 of 2005 ()

**AGAINST THE ORDER IN OP(ELE) NO. 494/2002 of ADDITIONAL DISTRICT COURT,
ALAPPUZHA, DATED 09-02-2005**

REVISION PETITIONER(S)/1ST RESPONDENT :

**POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA, KAYAMKULAM
REPRESENTED BY ITS MANAGER.**

BY ADV. SRI.SHAFIK M. ABDULKHADIR

RESPONDENT(S):

**SRI. G. KRISHNA PILLAI,
AGED 50 YEARS, S/O. GOVINDA PILLAI, G.K. BHAVANAM
VEDARAPLAVU MURI, THAMARAKULAM VILLAGE
ALAPPUZHA DISTRICT.**

**THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
31-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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P.BHAVADASAN, J.

C.R.P. No. 836 of 2005

Dated this the 31st day of August, 2015

ORDER

Aggrieved by the order dated 09.02.2005 in O.P.(Ele.) No. 494/2002, the first respondent before the court below has come up in revision.

2. It is not in dispute that for the purpose of drawing a Kayamkulam - Edamon 220 KV line, the first respondent before the court below cut and removed certain trees from the property of the petitioner before the court below and for the trees so cut and removed, a compensation of ₹7,365/- was granted. Aggrieved by the inadequacy of compensation granted by the first respondent before the court below, the owner of the property approached the District Court by way of O.P.(Ele.) 494/2002. The court below, in the case of yielding coconut trees, adopted the principle laid down in the decision reported in **Kumba Amma v. Kerala State Electricity Board** (2000 (1) KLT 542) and granted an

enhanced value of ₹5,782/- as additional compensation for the trees cut and removed. The court below was also of the opinion that for the diminution of the land value caused due to the drawing of the line, it is reasonable to take ₹6,000/- per cent as the value of the land at the relevant time and awarded a sum of ₹14,400/- towards the diminution of land value. The total enhanced compensation thus came to ₹20,182/-. The amount was to carry 6% interest.

3. The main grievance of the petitioner before this Court is that in view of the fact that the decision reported in **Kumba Amma's** case (supra) is no longer good law, the principle adopted by the court below cannot be sustained with regard to the enhanced compensation granted for the yielding coconut trees.

4. True, the decision reported in **Kumba Amma's** case (supra) is no longer good law. But that does not mean that interference is called for with the order of the court below. The court below has found that there were five

yielding coconut trees accepting the data available from the mahazar prepared by the Revenue Officials and found that the amount granted was far too short of a reasonable and just compensation.

5. It is well settled that each case has to be dealt with independently and distinctly in the light of the facts and circumstances disclosed by the evidence on record. It seems that the court below was of the view that the yield taken was less and that the compensation awarded for the coconut trees was far less than what was legally due to the petitioner. The enhanced amount is only ₹5,782/- which is very nominal.

6. It is not disputed that the petitioner before this Court had not granted any amount towards diminution in land value. Going by the principles laid down in various decisions, it is well settled that the owner of the land is entitled to a reasonable amount towards diminution in land value because, as a result of drawing of the line, the value of

the property would diminish. The compensation depends upon the extent of land affected, the nature of line drawn etc..

7. One may remember here that the line drawn is 220 KV line and the property is situated near to a public road. The commercial importance and locality had been adverted to by the court below. Even though ₹30,000/- per cent was claimed as land value, the court below found that for want of convincing evidence, only ₹6,000/- per cent can be adopted. On that basis, the compensation towards the diminution in land value was calculated at ₹ 14,400/-. Thus, the court below found that total enhanced compensation that the petitioner is entitled is ₹20,182. 6% interest was also granted.

8. After having heard the learned counsel for the petitioner and after having gone through the order of the court below, this Court finds no reasons to interfere with the order of the court below. As already stated, even though the

principle adopted for granting enhanced compensation for yielding coconut trees may not be applicable as such as of now, that does not mean that the enhanced amount awarded is not reasonable. So also the amount awarded for the diminution of land value be just and reasonable.

For the above reasons, this court finds no reason to interfere with the order of the court below. This revision is without merits and it is accordingly dismissed.

Sd/-
P.BHAVADASAN
JUDGE

ds

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P.A. to Judge