

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAM

MONDAY, THE 19TH DAY OF OCTOBER 2015/27TH ASWINA, 1937

CRP.No. 234 of 2009 ()

AGAINST THE ORDER/JUDGMENT IN OPELE 67/2002 of ADDITIONAL DISTRICT
COURT (ADHOC - II), ERNAKULAM DATED 11-07-2008
REVISION PETITIONER(S)/RESPONDENT:

KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY
KERALA STATE ELECTRICITY BOARD, THIRUVANANTHAPURAM.

BY SRI.PULIKOOL ABUBACKER, SC, KSEB

RESPONDENT(S)/PETITIONER:

SMT.PRABHAVATHY AMMA, AGED 61 YEARS,
W/O.ARAVINDAKSHAN PILLAI, MULLAKKAL
EDAPPALLY NORTH P.O.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19-
10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.N. Ravindran, J.

C.R.P.No.234 of 2009

Dated this the 19th October, 2015

ORDER

The Kerala State Electricity Board has filed this revision petition under section 115 of the Code of Civil Procedure challenging the order passed by the Court of the Addl. District Judge (Adhoc I), Ernakulam in Electricity (OP) No.67 of 2002. The brief facts of the case are as follows:

2. The respondent herein is the owner of 12 cents of land through which the Kaloor – Kalamassery 110 KV line was drawn. For that purpose 9 yielding arecanut palms and a jack tree standing therein were cut and removed. The Kerala State Electricity Board ('the Board' for short) at whose instance the line was drawn, paid a sum of Rs.2,100/- as compensation to the respondent. The respondent received the said amount under protest and thereafter filed Electricity (O.P.) No.67 of 2002 before the District Court, Ernakulam wherein she claimed a total compensation of Rs.7,02,000/- comprised of Rs.1,02,000/- as compensation for the trees cut and removed from the

property and Rs.6,00,000/- towards compensation for diminution in land value. The Board opposed the said application.

2. Before the District Court, the land owner examined himself as PW1 and produced and marked Ext.A1. On the side of the Board, no oral evidence was adduced. The court below considered the rival contentions and awarded a total sum of Rs.6,762/- as compensation for the trees cut and removed from the property and after deducting the sum of Rs.2,100/- paid by the Board, directed it to pay a further sum of Rs.4,662/- on that score. The court below also awarded a sum of Rs.39,000/- as compensation for diminution in land value and directed the Board to deposit the said amount together with interest at 7% per annum from 24.8.1990 till the date of payment. The said order is under challenge in this revision petition.

3. Heard learned standing counsel for the Board. Perused the records. It is not in dispute that the land through which the 110 KV line has been drawn, has an area of only 12 cents. It is also not in dispute that thereby 6.5 cents of land has been rendered useless. It is also not

in dispute that 9 arecanut palms and one jack tree were cut and removed. The total compensation awarded by the Board was only Rs.2,100/-. The court below has, by the impugned order, awarded a sum of Rs.5,322/- as compensation for nine arecanut trees and Rs.1,440/- for one jack tree. Giving credit to the sum of Rs.2,100/- already paid, the court below has directed the Board to pay a further sum of Rs.4,662/-. Likewise, the court below has awarded a sum of Rs.39,000/- as compensation for diminution in land value. Having regard to the fact that 6.5 cents of land out of 12 cents situate in a residential area has been rendered unfit for any purpose including the construction of a residential house, I am of opinion that the compensation awarded for diminution in land value cannot be said to be excessive or exorbitant. Likewise, the compensation awarded for the trees cut and removed cannot also be said to be excessive or exorbitant.

The revision petition fails and it is accordingly dismissed with a direction to the petitioner to deposit the amount awarded by the court

below together with interest, within three months from today. Upon such deposit being made, the amount deposited shall be released to the respondent herein. No costs.

(P.N. Ravindran, Judge.)

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