

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

CRP.No.603 of 2009

AGAINST THE ORDER DTD.7.7.2009 IN O.P. (Electricity) No.78/2001 OF
DISTRICT COURT, PALAKKAD

REVISION PETITIONERS/RESPONDENTS:

1. THE SECRETARY,
KERALA STATE ELECTRICITY BOARD, VYDHUDDHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.
2. EXECUTIVE ENGINEER,
TRANSMISSION DIVISION, K.S.E.BOARD, VANNAKKARA,
PALAKKAD.
3. ASSISTANT EXECUTIVE ENGINEER,
K.S.E.BOARD, SUB STATION SUB DIVISION,
PALAKKAD.
4. DEPUTY TAHSILDAR (LA),
K.S.E.BOARD, MALAPPURAM.

BY ADVS.SRI.P.SANTHALINGAM (SR.), SC, KSEB
SRI.S.SHARAN, SC, KSEB

RESPONDENT/PETITIONER:

M/S. MYTHRI CONSTRUCTIONS
KANNANCHERRY ROAD, KOZHIKODE, REPRESENTED BY
THE MANAGING PARTNER E.KUTTAPPAN, AGED 80 YEARS
S/O.KELU.

BY ADV. SRI.P.R.VENKETESH

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-06-2015, ALONG WITH CRP. 643/2009, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

P.BHAVADASAN, J.

Civil Revision Petition Nos.603 & 643 OF 2009

Dated this the 8th day of May, 2015.

O R D E R

These two revision petitions are directed against the award passed in O.P.(Electricity) No.78/2001 by the District Court, Palakkad.

2. It is not in dispute that the respondent-Electricity Board in C.R.P.No.643/2009 did utilise a good portion of the property owned and possessed by the petitioner for drawing 110 KV DC line from 220 KV Sub Station, Kanjikode to 110 KV Traction Sub Station, Kanjikode for railway electrification. Aggrieved by the pittance of compensation granted by the Board and denial of compensation in respect of diminution in land value, the owner of the property approached the District Court concerned as is envisaged under law. The court concerned, after taking evidence, found that even though the petitioner has produced Exts.A3 to A5 which would indicate that the price of land in the locality is Rs.30,000/- per cent, Rs.15,00,000/- was granted as

diminution in land value calculating it on the basis that,

$$\frac{20,000 \times 150 \times 50}{100} \quad (\text{Rs.20,000/- is taken as land value})$$

For the six cents used for erecting two towers, Rs.1,20,000/- was given.

3. While the petitioner-KSEB in CRP No.603/2009 complains about the huge amount granted as compensation, the owner of the property in CRP No.643/2009 would complain about the slashing of the price from Rs.30,000/- to Rs.20,000/- per cent without any justification.

4. Sri.P.R. Venkatesh, learned counsel appearing for the petitioner in CRP No.643/2009 complains that there was no justification and there was no reason as to why the price of Rs.30,000/- per cent as evidenced by Exts.A3 to A5 was slashed to Rs.20,000/- and a just and fair compensation was denied to the petitioner. Learned counsel contended that Rs.30,000/- per cent ought to have been taken as value per cent and diminution in land value should have been calculated on that basis.

5. Learned counsel appearing for the respondent-KSEB, on the other hand, contended that at the relevant time price of Rs.20,000/- per cent was a reasonable amount and the court below awarded so.

6. After having heard the learned counsel on both sides, it is felt that there is some substance in the complaint voiced by the petitioner in CRP No.643/2009. One should remember that the O.P (Electricity) No.78/2001 was filed in 2001. We are in 2015. 14 years have elapsed. Money value has dropped considerably.

7. Considering all the above facts, it is felt that the value of land at present would be taken as Rs.25,000/- per cent. That be so, adopting the principle taken by the court below, the amount would come to,

$$\frac{25,000 \times 150 \times 50}{100} = \text{Rs.18,75,000/-}.$$

8. The court below has found that six cents have been utilised for erecting two towers. The entire property may have become useless for any purpose due to the drawing of line. That means the petitioner in CRP No.643/2009 is entitled to get

Rs.1,50,000/- (Rs.25,000 x 6) for six cents.

9. One has to remember that a prime property has been used for drawing line. Even though theoretically it could be said that the petitioner in CRP No.643/2009 is the owner of the property as there is no acquisition as such, the land serves no purpose to him. The sketch perused by this Court shows that the line has been drawn making the entire property almost useless for any purpose. These are the factors which have persuaded this Court to enhance the compensation.

For the above reasons, CRP No.643/2009 is partly allowed and the price of land fixed by the trial court is enhanced from Rs.20,000/- to Rs.25,000/- and compensation for diminution in land value fixed as Rs.15,00,000/- by the court below is enhanced to Rs.18,75,000/- and the value of land occupied by the towers is enhanced to Rs.1,50,000/-, with interest as granted by the court below. CRP No.603/2009 filed by the KSEB is dismissed.

Sd/-

P.BHAVADASAN
JUDGE

smp