

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

CRP.No.380 of 2008

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AGAINST THE ORDER DTD. 24.7.04 OF ADDL. DISTRICT COURT,  
NORTH PARAVUR IN O.P. (Ele) 84/1998

REVISION PETITIONER/RESPONDENT:

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

BY ADVS.SRI. ASOK M.CHERIYAN, SC, KSEB  
SRI.PULIKOOL ABUBACKER, SC, KSEB

RESPONDENT/PETITIONER:

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KUMARAN, S/O.EKKORAN  
THEKKUMKUDY HOUSE, VENGOOR KARA, VENGOOR VILLAGE.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**P.BHAVADASAN, J.**

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**Civil Revision Petition No.380 OF 2008**  
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**Dated this the 20<sup>th</sup> day of January, 2015.**

**O R D E R**

Aggrieved by the order dated 24.07.2004 in E.O.P No.84/1998, Kerala State Electricity Board (KSEB) has come up in revision.

2. It is not in dispute that KSEB, in order to draw 220 KV electric line, cut and removed trees standing in the property of the respondent for which the Board assessed compensation as Rs.1,638/-. As usual, the Board did not feel it necessary to provide any compensation for diminution in land value. Aggrieved by the inadequate compensation granted by the Board, claimant came up before the District Court in E.O.P.No.84/1998. The court below accepted the evidence of one of the parties who was examined as PW5 and three petitions were tried together and in the present case, total yield per tree was taken as Rs.250/- and net yield from one tree per year was assessed as Rs.115/-. The court below accepted the mahazar produced by

the Board which showed that 42 rubber trees have been cut and removed from the property of the claimant, and accepting 5% annuity constant rate, calculated total compensation due for the trees cut and removed as Rs.66,649/-. Deducting Rs.1,638/- already granted by the Board, court below assessed additional compensation towards trees cut and removed as Rs.65,011/-. 9% interest was also granted. The court below also accepted that 7.79 cents of land was injuriously affected by drawing of line and assessing 30% as diminution in land value and taking Rs.5,000/- per cent as land value, came to the conclusion that the petitioner before the court below is entitled to get Rs.11,685/- as compensation for diminution in land value. That was also granted. Surprisingly, no interest was granted on that amount. Aggrieved Board comes up in revision.

3. Much of the contentions centered around acceptance of 5% annuity constant rate for assessment of income from the rubber trees. Learned counsel appearing for the petitioner before this Court contended that the principle adopted is not good in law and therefore, the order cannot be supported.

4. Going by the decision in **Kerala State Electricity Board** vs. **Livisha** ((2007 (3) KLT 1(SC)), probably, the contention is true. But one has to notice that trees were cut and removed in 1992 and we are in 2015. 23 years have elapsed. To sent the case back for re-assessment is not justified. The assessment was made when annuity principle was in force and therefore that has been applied in the case and it was later that the above decision came into force that the said procedure cannot be adopted and multiplier procedure has to be adopted. Therefore, it could not be said that there is any error in the compensation granted for the trees cut and removed. Even though, as already noticed, going by the latest decision, it may not be sustainable, lapse of 23 years must compensate for the same. As regards the diminution in land value, complaint is that the petitioner before the court below claimed Rs.5,000/- per cent and that has been accepted by the court below. In almost all cases which were jointly tried, same land value has been accepted and it needs to be noticed that amount fixed as compensation for diminution in land value is only Rs.11,685/-.

Going by the award so passed, it appears that no interest has been granted on diminution in land value. Anyhow, there is no revision by the claimant in this regard.

5. For the above reasons, this Court feels that there is no justification in interfering with the order passed by the court below.

This petition is without merits and it is accordingly dismissed.

Sd/-

**P.BHAVADASAN  
JUDGE**

smp

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P.A. To Judge.