

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

FRIDAY, THE 30TH DAY OF JANUARY 2015/10TH MAGHA, 1936

CRP.No. 429 of 2010

**AGAINST THE ORDER IN OP(ELE) 156/2005 of ADDITIONAL DISTRICT COURT,
ALAPPUZHA. DATED 12-10-2009**

REVISION PETITIONER(S)/RESPONDENT:

**KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
VYDYUTHI BHAVANAM,
PATTOM, THIRUVANANTHAPURAM.**

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

RESPONDENT(S)/PETITIONER:

**MARY JOHN, KANNAMPALLI VEETIL,
AROOR VILLAGE, CHERTHALA TALUK,
ALAPPUZHA.**

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 30-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

P. BHAVADASAN, J.

C.R.P. No. 429 of 2010

Dated this the 30th day of January, 2015.

ORDER

Aggrieved by the order dated 12.10.2009 in O.P. (Ele.) 156 of 2005 before the District Court, Alappuzha, the respondent Board has come up in revision.

2. It is an admitted fact that for the purpose of drawing a 110 KV line, 11 cents of property belonging to the claimant was utilized. Certain trees were cut and removed from her property. The Board awarded compensation of Rs.9,675/- towards damages so suffered by the claimant. Dissatisfied with the amount so awarded, the claimant approached the District Court for enhancement. The District Court did not find any reason to enhance the amount for the trees cut and removed from the property.

3. The District Court, however, considered the diminution in land value suffered by the claimant. As usual, the Board has not awarded any amount on that count. The court below, taking note of the fact that 110 KV electric line was drawn up right across the property of the claimant, even assuming that there is no commission taken out by the claimant to show the actual extent of property affected, formed the opinion that it is natural to believe that the property would have been injuriously affected. As far as the land value is concerned, the petitioner has produced a document which would show that the land value in 2009 is Rs.3,15,000/- per cent. The trees were cut and removed in 1999. On the basis of the document produced by the claimant, the court below formed the opinion that a reasonable value of Rs.50,000/- shall be taken as land

value for the year 1999. Taking 30% as diminution, a sum of Rs. 1,65,000/- was awarded as compensation towards diminution in land value.

4. The above order is challenged in this revision.

5. Learned counsel appearing for the petitioner Board contended that there is no evidence to show the actual extent of property affected and also there is no evidence of actual land value at the relevant time. Evidence ought to have been adduced by the claimant to establish the above fact. In the absence of anything, the court below could not have awarded the amount as it did.

6. The claimant before the court below did produce a document to show that the land value during 2009 is Rs.3,15,000/- per cent. Of course, admittedly trees are cut and removed in 1999. After consideration of the various aspects, the court below came to the conclusion that

at the relevant time, the property would have fetched Rs.50,000/- per cent. It is not disputed that the property of the claimant is similar in nature of the property regarding which the sale deed was produced. Further, the court below also formed the opinion that even though there was no commission report showing the extent of the property affected, there would have been diminution in land value as a result of the drawing of the line through the property of the claimant. One needs to note that the petitioner was examined as P.W.1 and she has spoken to the facts on the basis of the compensation claimed. There is no contra evidence adduced. There is no reason to reject the evidence adduced by the petitioner. On a perusal of the order of the court below, it is felt that a reasonable assessment has been made by the court below in arriving at the compensation for the diminution in land value. At this

distance of time, it will not be just and proper to interfere with the said finding and remand the matter for fresh consideration. One has to remember that the trees were cut and removed in 1999 and almost 16 years have elapsed and the interest awarded is also reasonable.

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

sb.

P. BHAVADASAN,
JUDGE