

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

CRP.No. 532 of 2010 ()

AGAINST THE ORDER/JUDGMENT IN OP(EA) 38/2008 of
ADDL. DISTRICT COURT, ALAPPUZHA. DATED 21-06-2010

REVISION PETITIONER(S)/RESPONDENT::

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

BY ADVS.SRI.PULIKOOL ABUBACKER, SC, KSEB

RESPONDENT(S)/PETITIONER::

BHARGAVI AMMA RAJAMMA,
AGED 80, KOORIKKATTU MADATHIL, NADUBHAGOM
THYKKATTUSSERI, CHERTHALA, PIN - 688 001.

BY ADV. SRI.K.V.SADANANDA PRABHU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 15-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

CRP No.532 of 2010

Dated this the 15th day of September, 2015

O R D E R

1. Heard the learned standing counsel for the KSE Board and the learned counsel for the respondent.

2. This revision is against a final order passed on an application under Sections 10 and 16 of the Indian Telegraph Act, 1885 read with the relevant provisions of the Indian Electricity Act, thereby determining the compensation payable on account of drawal of electric line over the property of the respondent. The extent of land that the respondent has, was four cents. A 33 KV electric line was drawn by planting a tower in the land of the respondent. That tower occupies two cents of land. Therefore, there is complete deprivation of the utility of that two cents. Such deprivation is a complete exclusion from any act of possession or ownership being thereafter available to the respondent. The consequential diminution of the land value as regards the remaining two cents on the corollary impact of

such placement of the tower is also a relevant consideration. The learned District Judge has looked into the claim of the respondent and has decided the issue under two heads. The first point decided was in relation to the compensation fixed for the trees that were lost by felling for the purpose of the drawal of the line. Nothing is pointed out to visit the said decision in exercise of Section 115 CPC, in as much as the relevant materials, including the number of trees, the value of the coconuts and the available crop ratio have been duly determined and applied by the learned District Judge.

3. Insofar as the second point is concerned, it relates to the question whether the learned District Judge had exceeded in jurisdiction or committed any material irregularity in exercise of jurisdiction in deciding the depreciation in the land value. As already noted above, there is total two out of four cents of the land belonging to the respondent. The market value of that two cents itself was fixed at ₹50,000/- by the learned District Judge. The District Judge has not made any separate

order for diminution of the land value as regards the remaining two cents. What has been done is that there is a determination by which loss by way of diminution of land value has been ascertained as regards the whole extent of four cents on the basis of the land value fixed at ₹50,000/- per cent, taking into consideration that the tower stands in two cents. That decision was rendered on proper appreciation of materials and on merits, on the basis of the relevant laws and principles which are settled through judicial precedents to govern such determination of compensation. Therefore, the said decision also does not call for interference in revision under Section 115 CPC, since there is nothing to hold that the court below had acted in exercise of its jurisdiction illegally or with material irregularity or in excess of jurisdiction. The revision petition fails, on that point as well.

In the result, this revision petition is dismissed. No costs.

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)