

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

TUESDAY, THE 24TH DAY OF FEBRUARY 2015/5TH PHALGUNA, 1936

CRP.No. 193 of 2013

AGAINST THE ORDER IN OP(ELE) 94/2010 of ADDITIONAL DISTRICT COURT,
ALAPPUZHA. DATED 30-11-2012

REVISION PETITIONER/RESPONDENT:

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVANAM, PATTOM P.O.
THIRUVANANTHAPURAM - 695 004.

BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB

RESPONDENT/PETITIONER:

RAJAN (DIED. LRs IMPEADED)
KADATTU, POLLA NIKARTHU, THURAVOOR P.O.
CHERTHALA, ALAPPUZHA DISTRICT, PIN - 688 524.

ADDL.R2 REMANI D., W/O. LATE RAJAN,
KADATTU POLLA NIKARATHU, THURAVOOR P.O.,
CHERTHALA, ALAPPUZHA DISTRICT, PIN - 688 524.

ADDL.R3 SETHULEKSHMY R, D/O. LATE RAJAN,
-DO- - DO-

ADDL.R4 SANALKUMAR R, S/O. LATE RAJAN,
-DO- -DO-

ADDL.R5 SAJEESHKUMAR K.R., S/O. LATE RAJAN,
-DO- -DO-

ADDL.R6 SANGEETH R, S/O. LATE RAJAN
-DO- -DO-

(ADDL. RESPONDENTS 2 TO 6 ARE IMPEADED AS THE LEGAL
HEIRS OF the DECEASED RESPONDENT AS PER ORDER DTD.
10.11.14 IN I.A.2450/13 IN CRP 193/13)

R5-R6 BY ADV. SRI.S.SANAL KUMAR
R5-R6 BY ADV. SMT.BHAVANA VELAYUDHAN
R5-R6 BY ADV. SMT.T.J.SEEMA

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 24-02-2015, ALONG WITH CRP 31/2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

P.BHAVADASAN, J.

**Civil Revision Petition Nos.193 OF 2013 &
31 OF 2015**

Dated this the 24th day of February, 2015.

O R D E R

Aggrieved by the order dated 30.11.2012 in O.P(Ele) No.94/2010, both the petitioner and the respondent before the court below have come up before this Court voicing their grievances.

2. As regards the claimant before the court below is concerned, the concern seems to be regarding the compensation given for the three trees cut and removed from his properties.

3. As regards KSEB is concerned, they took objection to that part of the order granting a huge amount as diminution in land value. The case is that the affected land is only 4 cents and the land value will be Rs.2,12,000/- per cent whereas the court below had adopted 4.5 cents of land as affected and granted Rs.2,19,298/- per cent as land value.

4. As regards the grievance of the claimant before the court below, the court below considered the mode adopted by the KSEB regarding the trees cut and removed and found no objection with the conclusion drawn. The court below found that by no stretch of imagination it could be said that the compensation awarded is not reasonable and the claimant was entitled to more compensation for the trees cut and removed from his properties. Finding no ground to enhance the compensation, court below declined to grant any amount for the trees cut and removed from the properties of the claimant. On anxious consideration of the material referred to in the order of the court below, it is felt that the finding of the court below that no enhancement of amount for the trees cut and removed can be granted seems to be fully justified.

5. Coming to the diminution in land value, KSEB as usual did not grant any amount at all. The court below based on the Commissioner's report found that 4.5 cents of property had been

affected even though the petitioner before the court below has stated that only 4 cents have been affected. The extent shown by the petitioner is only approximate and the Commissioner has visited the property and found that 4.5 cents of property have been affected.

6. As regards the value of land adopted by the court below, the court below based its finding on Ext.A2 document which is of the year 2007 and the property as per that document was sold for Rs.4,25,000/-. The court below accepting that value and also basing its conclusion on the Commissioner's report which pointed out that the property in dispute is almost similar to the property covered by Ext.A2, found that percentage of diminution can be fixed at 40%. The court below accepted 4.5 cents as affected and the market value of the property was fixed at Rs.2,19,298/- per cent and awarded Rs.3,94,664/- towards diminution in land value.

7. After having heard the counsel of both sides, this Court

finds no grounds to interfere with the order passed by the court below since it is based on legal evidence and the conclusion drawn cannot be said to be either perverse or contrary to the evidence on record. After all the claimant is entitled to just compensation and if the court below thought it fit to adopt the Commissioner's report to arrive at a conclusion, it could not be found fault with.

These petitions are without merits and they are accordingly dismissed.

Sd/-

**P.BHAVADASAN
JUDGE**

smp

// True Copy //

P.A. To Judge.