

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.T. SANKARAN  
&  
THE HONOURABLE MR. JUSTICE P.D. RAJAN

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

**W.A.No. 333 of 2015**

AGAINST THE JUDGMENT IN WP(C) NO.32779/2014 OF THE  
HIGH COURT OF KERALA DATED 28-01-2015

APPELLANT/PETITIONER:

NIJU PHILIP THOMAS,  
S/O. THOMAS T. MATHEW, THANNIMOOTTIL HOUSE  
CHELLACKADU P.O., RANNI, PATHANAMTHITTA.

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS/RESPONDENTS:

1. THE DISTRICT COLLECTOR,  
COLLECTORATE, PATHANAMTHITTA-689 647.
2. THE REVENUE DIVISIONAL OFFICER,  
OFFICE OF THE REVENUE DIVISIONAL OFFICER  
THIRUVALLA-689 101.
3. THE EXECUTIVE ENGINEER,  
KERALA STATE ELECTRICITY BOARD LTD.  
TRANSMISSION DIVISION, KAROOR P.O., PALA, KOTTAYAM.
4. THE ASSISTANT EXECUTIVE ENGINEER,  
KERALA STATE ELECTRICITY BOARD LTD., TC SUB DIVISION  
66KV SUB STATION COMPOUND, KANJIRAPPALLY PO  
KOTTAYAM-686 507.
5. THE ASSISTANT ENGINEER,  
KERALA STATE ELECTRICITY BOARD LTD., TC SUB DIVISION  
KANJIRAPPALLY-686 507.

R1 AND R2 BY GOVERNMENT PLEADER  
SRI.DHANESH MATHEW MANJOORAN  
R2 TO R5 BY SRI.K.M.SATHYANATHA MENON, SC, KSEB

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 12-02-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.T.SANKARAN & P.D.RAJAN, JJ.**

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**W.A. No.333 of 2015**  
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**Dated this the 12<sup>th</sup> day of February, 2015**

**JUDGMENT**

**K.T.Sankaran, J.**

The dispute in the Writ Petition relates to erection of an electric post in front of the plot of land belonging to the appellant (writ petitioner) on the side of Punalur-Muvattupuzha road. According to the appellant, before erecting the post consent of the appellant should have been obtained or else the matter should have been referred to the authority under Rule 3 of the Works of Licensees Rules, 2006 framed under the Electricity Act.

2. The appellant owns an extent of four cents of land on the side of Punalur-Muvattupuzha road. He intends to construct a building in that property. He got the plan approved from the local authority for that purpose. While so, a 33 KV electric line was proposed to be drawn from Ranni Sub Station to Manimala Sub Station. According to the appellant, this line was proposed to be

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drawn on the side of the road just on the opposite side of the plot belonging to the appellant. That line was subsequently diverted and the post was proposed to be erected just in front of the plot of land belonging to the appellant and that too in front of the middle of the pathway thereby obstructing the free ingress and egress to his plot. According to the Board, there was no deviation from the original proposal and there was no shifting of the location of the post. However, it is stated by the Board that the original proposal was to instal the post on the side of the road which will be on the middle of the front portion of the plot belonging to the appellant. The appellant submitted Ext.R3(c) representation to the Assistant Engineer and considering that request the location of the post was shifted to a distance so that it would remain outside the property of the appellant. That was to the benefit of the appellant. The learned counsel appearing for the Board submitted that there is no material to show that the original proposal was to draw the line along the opposite side of the appellant's plot and the route was deviated.

3. The appellant relied on Rule 3(1) of the Works of Licensees Rules, 2006, which reads as follows:

“3. Licensees to carry out works:- (1) A licensee may -

- (a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land.
- (b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of an overhead line on any building or land or having been so fixed, may alter such support:

Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorised may by order in writing direct for any such works, support, stay or strut to be removed or altered.” (emphasis supplied)

4. The appellant contended that the matter should have been referred to the independent authority as laid down in the first proviso to clause (b) of Rule 3(1) of the Rules. The learned Single Judge rejected this contention on the ground that the appellant has no case that the electric post is being erected or the electric supply line is being drawn over the land of the appellant or that the line is drawn under the land of the appellant. The electric post proposed to be installed is outside the property belonging to the appellant and on the side of the road. Therefore, Rule 3 is not attracted at all in the case, as rightly held by the learned Single Judge.

5. The learned Single Judge also held that the appellant having submitted Ext.R3(c) representation before the Assistant Engineer, he is estopped from taking the stand as now taken in the Writ Petition. The learned Single Judge also held that if the appellant has any grievance that the erection of the post would cause hindrance to the access to his property, he is free to approach the civil court

We do not find any infirmity in the judgment passed by the learned Single Judge. No interference is called for. The Writ Appeal fails and it is, accordingly, dismissed.

**(K.T.SANKARAN)**  
**Judge**

**(P.D.RAJAN)**  
**Judge**

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