

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

WP(C).No. 1077 of 2011 (H)

PETITIONER :

**MATHEW SEBASTIAN, S/O.DEVASIA,
PARAYARU THOTTAM HOUSE, KAVALAMUKKATTA
POOKKOTTUPADAM, NILAMBUR.**

**BY ADVS.SRI.P.BABU KUMAR
SRI.P.YADHUKUMAR**

RESPONDENT(S):

- 1. KERALA STATE ELECTRICITY BOARD,
REP. BY ITS CHIEF ENGINEER, VAIDYUTHI BHAVAN
THIRUVANANTHAPURAM**
- 2. ASST.ENGINEER, ELECTRICAL SECTION,
POOKKOTTUMPADAM.**
- 3. T.K.SAFIYA, MUKKIL HOUSE, VENGARA P.O
NILAMBUR, MALAPPURAM DISTRICT. PIN - 676 304.**

**R1 AND R2 BY ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B
R3 BY ADV. SRI.K.A.SALIL NARAYANAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

WP(C).No. 1077 of 2011 (H)

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXT.P1 : TRUE PHOTOCOPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT DATED 19.10.2010.**
- EXT.P2 : TRUE PHOTOCOPY OF THE RECEIPT ISSUED BY THE 2ND
RESPONDENT DATED 19.10.2010**
- EXT.P3 : TRUE PHOTOCOPY OF THE NOTICE ISSUED BY THE 2ND
RESPONDENT DATED 17.01.2011.**
- EXT.P4 : A ROUGH SKETCH OF THE PETITIONERS PROPERTY AND
RESPONDENTS PROPERTY AND ELECTRIC CONNECTION.**

RESPONDENT(S)' EXHIBITS : **NIL**

/TRUE COPY/

PA TO JUDGE

VS

ANIL.K.NARENDRA, J

W.P.(C) No.1077 of 2011

Dated this the 2nd day of February, 2015

JUDGMENT

The petitioner applied for an electric connection to his pump house used for irrigation purposes. Based on the applications submitted by the petitioner, the second respondent granted electric connection to the petitioner's premises on 20.10.2010. On 7.1.2011, the petitioner was issued with Ext.P3 notice, by which the second respondent has directed him to obtain necessary consent from the third respondent, over whose property the electric line has already been drawn. Ext.P3 was issued on the ground that, at the time of drawing electric line, the petitioner has not disclosed the fact that, by such drawing of electric line the property of the third respondent will be injuriously affected. It is challenging Ext.P3, the petitioner has filed this writ petition before this court seeking a writ of certiorari to quash Ext.P3 notice.

2. By order dated 12.1.2011, this court ordered that until further orders the electric supply to the

petitioner's pump house shall not be disconnected.

3. On receipt of notice, the third respondent entered appearance and filed counter affidavit, contending that the offices of the electricity board had drawn electric line to the petitioner's pump house, crossing the property of the third respondent and this was done without obtaining any consent from her. Since electric line was drawn without fulfilling the statutory requirements, the second respondent was perfectly justified in issuing Ext.P3 communication to the petitioner asking him to obtain consent from the third respondent.

4. I heard the arguments of the learned Standing Counsel for the respondent Board and also the learned Counsel for the third respondent.

5. A perusal of Ext.P4 sketch produced by the petitioner would show that, the electric line to the petitioner's pump house, for energising the pump set installed by him for agricultural connection was drawn from an electric post erected in the third respondent's property. The electric line through the route proposed by

the petitioner crosses the third respondent's property, which is evident from Ext.P4 sketch itself. In such circumstances, in the application submitted by the petitioner before the second respondent, he should have disclosed the fact that the proposed route cut across the property of the third respondent and therefore, in cases of any objection on the side of the third respondent, the Board should obtain necessary permission from the District Magistrate under Section 16(1) of the Electricity Act. It was suppressing the said facts, the petitioner obtained electric connection to his premises.

6. When the second respondent noticed the illegality in drawing electric line over the property of the third respondent, even without obtaining her consent, Ext.P3 letter was issued to the petitioner asking him to obtain necessary consent from the third respondent. In such circumstances I find absolutely no illegality or irregularity in Ext.P3 letter issued by the third respondent. It is for the petitioner to approach the third respondent and obtain her consent for the line already drawn over her

property. If the third respondent is not agreeable to give consent, it would be open to the petitioner to report the said fact to the second respondent in which event the second respondent, if found necessary, shall approach the District Magistrate for appropriate orders for regularising the electric line already drawn to the petitioner's property. Such exercise shall be completed, as expeditiously as possible, at any rate, within a period of six months from the date of this judgment. Till such time, the interim order granted by the court on 12.1.2011 shall continue to be in force.

The writ petition is disposed of.

Sd/-
ANIL.K.NARENDRA
JUDGE

/TRUE COPY/

PA TO JUDGE

VS