

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 2568 of 2014 (U)

PETITIONER(S):

- 1. SANTHA
D/O.ROSAMMA, MANOJ BHAVAN, PUNNAKKALAVILA
VEERANAKAVU VILLAGE, THIRUVANANTHAPURAM DISTRICT.**
- 2. MANOHARAN
S/O.GANGADHARAN, MANOJ BHAVAN, PUNNAKKALAVILA
VEERANAKAVU VILLAGE, THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.D.KISHORE
SMT.MINI GOPINATH**

RESPONDENT(S):

- 1. THE DISTRICT COLLECTOR
THIRUVANANTHAPURAM - 695 001.**
- 2. THE REVENUE DIVISIONAL OFFICER/SUB DIVISIONAL MAGISTRATE
THIRUVANANTHAPURAM - 695 001.**
- 3. THE KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM - 695 001.**
- 4. THE ASSISTANT EXECUTIVE ENGINEER
KERALA STATE ELECTRICITY BOARD
ELECTRICAL SUB DIVISION, KATTAKKADA
THIRUVANANTHAPURAM DISTRICT - 695 572.**
- 5. THE ASSISTANT ENGINEER
KERALA STATE ELECTRICITY BOARD
ELECTRICAL SUB DIVISION, KATTAKKADA
THIRUVANANTHAPURAM DISTRICT - 695 572**
- 6. RAMACHANDRAN
PUNNAKKALAVILA PUTHEN VEEDU, VEERANAKAVU
VEERANAKAVU VILLAGE, NEDUMANGADU TALUK
THIRUVANANTHAPURAM DISTRICT - 695 541.**

**R1 BY ADV. SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB
R BY GOVERNMENT PLEADER SMT.ROSE MICHAEL**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P-1: TRUE COPY OF THE SALE DEED DATED 3.7.1985

EXT.P-2: TRUE COPY OF THE REPRESENTATION DATED 17.10.2013 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT

EXT.P-3: TRUE COPY OF THE REPRESENTATION DATED 3.1.2014 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT

EXT.P-4: TRUE COPY OF THE PROCEEDINGS NO.N.DIS.745/2014/SI DATED 3.1.2014 OF THE 1ST RESPONDENT

RESPONDENT(S)' EXHIBITS -

ANNEXURE R4(a): TRUE COPY OF THE ROUGH SKETCH WHICH SHOWS THE ROUTE THROUGH WHICH THE LINE IS DRAWN.

//TRUE COPY//

P.A. TO JUDGE

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ANIL K. NARENDRAN, J.

W.P.(C) No.2568 of 2014

Dated this the 26th day of February, 2015

JUDGMENT

The petitioners are stated to be the absolute owners in possession of 30.36 Ares of property in resurvey No.385/2 of Veeranakavu village covered by Exhibit P1. The grievance of the petitioners in this writ petition is that in order to give an electric connection to the 6th respondent's residential building, the Kerala State Electricity Board is attempting to draw an electric line over their property covered by Exhibit P1 Sale Deed. The petitioners have submitted Exhibits P2 and P3 representations before the second respondent highlighting their grievance. As evident from Exhibit P4, the second respondent has forwarded those representations to the 4th respondent for necessary action. In Exhibit P4 it was made clear that, if there is any objection that the proposed line crosses over any private holding, the 4th respondent should file a statutory

petition before the District Magistrate for necessary orders.

2. On receipt of Exhibit P4, the petitioner has approached this Court in this writ petition seeking a writ of mandamus commanding respondents 3 to 5 to refer the dispute relating to the property crossing/ drawing of electric line through the property of the petitioners covered by Exhibit P1 to the first respondent as provided under Section 16 of the Indian Telegraph Act, 1885. It was also contended in the writ petition that, though the electric line has already been drawn on 3.10.2013 it has not been energised till the date of filing of the writ petition.

3. A statement has been filed on behalf of respondents 3 and 4 in which it has been stated that, the 6th respondent applied for electric connection for his residential building. The Assistant Engineer visited the site and found that electric line can be drawn through a 13 ft. width Panchayath pathway, under RGGVY scheme. Hence it was decided to draw electric line through the

said pathway and electric supply was given to the 6th respondent on 7.10.2013 with consumer No.26873. Though the first petitioner raised objection in drawing the electric line, stating that it will cross through her property, according to the 3rd respondent - Board the electric line passes only through the Panchayath road. The Board has also produced a sketch as Annexure R4 (a), showing the route through which the electric line was drawn for giving electric connection to the residential building of the 6th respondent.

4. I heard the arguments of the learned counsel for the petitioners, the learned Government Pleader appearing for respondents 1 and 2 and also the learned Standing Counsel for the Board.

5. The main grievance of the 1st petitioner is that the electric line proposed by the 3rd respondent Board to give electric connection to the residential building of the 6th respondent passes through her property thereby causing inconvenience to her. Now, as can be seen from Annexure R4(a) sketch produced along with counter

affidavit filed by respondents 3 and 4, the electric line in question was drawn through the Panchayath pathway. Though the respondent Board has filed their statement on 7.01.2015, the petitioners have not chosen to file any reply affidavit. Going by the statement filed by respondents 3 and 4, the electric line has already been energised on 7.10.2013 and the 6th respondent has also been assigned consumer No.26873. The fact that the electric line in question has already been energised on 7.10.2013, i.e., much prior to the filing of the present writ petition, is not in dispute or the petitioners have not chosen to file a reply affidavit to the statement filed on behalf of respondents 3 & 4. Further, going by the specific stand taken by the Board, the electric line in question has been drawn through a Panchayath pathway in front of the petitioners' property. Since the said electric line is not drawn over the property of the petitioners, there was no necessity of the respondent Board referring the objection, if any, raised by the petitioners to the District Magistrate under Section 16(1)

of the Indian Telegraph Act, 1885. In the result, I find absolutely no grounds to interfere with the action taken by the respondent Board in drawing the electric line in question.

The writ petition fails and the same is dismissed. But it is made clear that, the dismissal of this Writ Petition will not stand in the way of the petitioners approaching the competent civil court, if so advised, for establishing their rights, if any, over the property in question. In which event, the competent civil court shall adjudicate the said dispute untrammelled by any observations contained in this judgment, which are made only for the limited purpose to dispose of this writ petition.

Sd/-
ANIL K. NARENDRA
JUDGE

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//TRUE COPY//

P.A. TO JUDGE

