

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE V.CHITAMBARESH**

**TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937**

**WP(C).No. 2894 of 2015 (J)**  
-----

**PETITIONERS:-**  
-----

- 1. MHIOA-MYSTIC HEIGHTS I OWNERS' ASSOCIATION  
REGD. OFFICE AT GROUND FLOOR, SHWAS MYSTIC HEIGHTS 1  
KANIYAMPUZHA ROAD, EROOR P.O., TRIPUNITHURA  
REPRESENTED BY ITS JOINT SECRETARY CAPT.  
(RETD) AYYAPPAN SATISH PILLAI, AGED 60  
S/O.LATE K.A.AYYAPPAN PILLAI, 38/2363 F  
BL BLUE MOON APARTMENTS, GANDHI ROAD, KALOOR P.O.  
ERNAKULAM - 682 017.**
- 2. CAPT. (RETD) AYYAPPAN SATISH PILLAI, AGED 60 YEARS  
S/O.LATE K.A.AYYAPPAN PILLAI, 38/2363 F  
BL BLUE MOON APARTMENTS, GANDHI NAGAR, KALOOR P.O.  
ERNAKULAM - 682 017.**

**BY ADVS.SRI.N.M.MADHU  
SRI.P.P.HARRIS  
SMT.C.S.RAJANI**

**RESPONDENTS:-**  
-----

- 1. THE EXECUTIVE ENGINEER  
KERALA STATE ELECTRICITY BOARD  
TRIPUNITHURA - 682 301.**
- 2. THE ASSISTANT EXECUTIVE ENGINEER,  
KERALA STATE ELECTRICITY BOARD, EROOR - 682 306.**
- 3. M/S.SHWAS HOMES PRIVATE LIMITED,  
GROUND FLOOR, MYSTIC HEIGHTS 1, KANIYAMPUZHA ROAD  
EROOR VILLAGE, KANAYANNUR TALUK  
ERNAKULAM DISTRICT - 682 306  
REPRESENTED BY ITS DIRECTOR SREENI PARAMESWARAN.**

**R1 & R2 BY ADV. SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB  
R3 BY ADVS. SRI.S.VINOD BHAT  
SRI.LEGITH T.KOTTAKKAL  
BY B.S.SURESH KUMAR (ADVOCATE COMMISSIONER)**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
-----

- EXHIBIT P1. TRUE COPY OF THE SALE DEED NO.3687/2007 DATED 31.03.2007 OF S.R.O.TRIPUNITHURA.**
- EXHIBIT P2. TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE FIRST PETITIONER ASSOCIATION.**
- EXHIBIT P3. TRUE COPY OF THE JUDGMENT IN O.S.270/2011 ON THE FILES OF THE PRINCIPAL MUNSIF COURT, ERNAKULAM.**
- EXHIBIT P4. TRUE COPY OF THE PHOTOGRAPHS SHOWING PREPARATORY WORKS.**
- EXHIBIT P5. TRUE COPY OF THE LETTER SENT BY THE PETITIONER BY REGISTERED POST ADDRESSED TO RESPONDENTS ONE AND TWO.**

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

- EXHIBIT R3(a). COPY OF SKETCH - SHOWING DRAWING OF 11KV LINE FROM DOUBLE POLE STRUCTURE TO PANEL ROOM**
- EXHIBIT R3(b). COPY OF SKETCH - ELECTRICAL PANEL ROOM**
- EXHIBIT R3(c). COPY OF THE ORDER DATED 17.06.2014 IN I.A. NO. 1419/2014 IN RSA 576/2014 OF THE HIGH COURT OF KERALA**
- EXHIBIT R3(d). COPY OF PLAINT - O.S. 1005/2011 ON THE FILE OF SUB COURT, ERNAKULAM**
- EXHIBIT R3(e). COPY OF I.A. NO. 7199/2011 IN O.S. NO.1005/2011 ON THE FILED OF SUB COURT, ERNAKULAM**

**ADVOCATE COMMISSIONER'S ANNEXURES:-**

- ANNEXURE -1: PHOTOGRAPH NO. 1**
- ANNEXURE -2: PHOTOGRAPH NO. 2**
- ANNEXURE -3: PHOTOGRAPH NO. 3**
- ANNEXURE -4: PHOTOGRAPH NO. 4**
- ANNEXURE -5: PHOTOGRAPH NO. 5**

- ANNEXURE -6:        PHOTOGRAPH NO. 6**
- ANNEXURE -7:        PHOTOGRAPH NO. 7**
- ANNEXURE -8:        PHOTOGRAPH NO. 8**
- ANNEXURE -9:        PHOTOGRAPH NO. 9**
- ANNEXURE -10:       PHOTOGRAPH NO. 10**
- ANNEXURE-11:       COPY OF THE CONSENT TO OPERATE BY THE POLLUTION  
CONTROL BOARD**
- ANNEXURE -12:       COPY OF THE PLAN APPROVED BY TRIPUNITHURA  
MUNICIPALITY**
- ANNEXURE -13:       COPY OF THE PERMIT APPROVED BY TRIPUNITHURA  
MUNICIPALITY**
- ANNEXURE -14:       COPY OF THE SITE LAYOUT OF MYSTIC HEIGHT -1 GIVEN  
BY THE PETITIONER**

**/TRUE COPY/**

**P.A. TO JUDGE**

**DCS**

**V. CHITAMBARESH, J**

-----  
**W.P.(C). NO. 2894 OF 2015**  
-----

Dated this the 31<sup>st</sup> day of March, 2015

**JUDGMENT**

Heard counsel for the parties and perused the report of the Advocate Commissioner.

2. It transpires that the generator is placed in the property allotted to the owners of 'Mystic Heights -2' whereas the panel room is placed in the property allotted to the owners of 'Mystic Heights -1'. The Advocate Commissioner has in his report dated 11.03.2015 concluded as follows:-

“From the above said measurements it could be seen that HT Switch station, Transformer for Phase-1 and STP are situated in the land appurtenant to Mystic Heights-1 and from there the cable is drawn for taking power supply to Mystic Heights-2. Generator is situated outside the said property.”

3. It is evident that the drawing of cable from 'Mystic Heights -1' to take power supply to 'Mystic Heights -2' is objected. The Kerala State Electricity Board fairly undertakes to move the Additional District

Magistrate in terms of Section 16 of the Indian Telegraph Act in the circumstances.

4. It is for the Additional District Magistrate to grant sanction for drawing the electricity cable after hearing the contentions of either parties. Any motion made in that regard shall be dealt with by the Additional District Magistrate within a period of two months therefrom. No electricity cable shall be drawn to 'Mystic Heights -2' from 'Mystic Heights -1' in the wake of the objection in the absence of sanction from the Additional District Magistrate.

The writ petition is disposed of.

**V. CHITAMBARESH  
JUDGE**

DCS