

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 6498 of 2011 (J)

PETITIONER:

**JOHNY E.C.,AGED 61 YEARS,
S/O.CHACKKUNNI,
ELANJIPPILLY HOUSE, MELADOOR P.O
ALATHUR VILLAGE, MUKUNDAPURAM, TALUK
THRISSUR DISTRICT REP. BY HIS BROTHER
AND POWER OF ATTORNEY HOLDER, JACOB E.C
AGED 55 YEARS.**

**BY ADVS.SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER**

RESPONDENT(S):

- 1. THE ADDL.DISTRICT MAGISTRATE
ERNAKULAM, COLLECTORATE, KAKKANAD
ERNAKULAM, KOCHI-30.**
- 2. KERALA STATE ELECTRICITY BOARD,
REP. BY ITS ASSISTANT EXECUTIVE ENGINEER
TRANSMISSION SUB DIVISION, KSEB OFFICE COMPLEX
CHALAKUDY, PIN-680 307.**
- 3. THE ASSISTANT EXECUTIVE ENGINEER,
KSEB TRANSMISSION SUB DIVISION, KSEB OFFICE COMPLEX
CHALAKUDY, PIN-680 307.**
- 4. RAMESHAN, ASSISTANT ENGINEER,
KSEB TRANSMISSION SUB DIVISION, KSEB OFFICE COMPLEX
CHALAKUDY, PIN-680 307.**
- 5. ELIZABATH MINI,
ASSISTANT ENGINEER, KSEB TRANSMISSION, SUB DIVISION
KSEB OFFICE COMPLEX, CHALAKUDY, PIN-680 307.**

**R2-5 BY ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B
R2-5 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB
BY GOVERNMENT PLEADER SRI. P.V. ELIAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-04-2015,
ALONG WITH WP(C). 12837/2011 & WP(C). 15111/2011, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:**

PETITIONERS EXHIBITS:-

EXT.P1: COPY OF DOCUMENT NO.2804/97 DATED 16.7.97 OF ANNAMANADA SUB
REGISTRY.

EXT.P2 : COPY OF THE TAX RECEIPT NO.6187545 OF BOOK NO.C61876 DATED
3.7.2009 ISSUED BY THE VILLAGE OFFICER OF KUNNUKARA VILLAGE

EXT.P3: COPY OF THE SKETCH OF THE ROUTE THROUGH WHICH 33 KV SUB
STATION ANNAMANADA TO 33 KV SUB STATION, KURUMASSERY.

EXT.P3(A): COPY OF THE RELEVANT PORTION OF THE LIST OF TREES WHICH
WOULD BE CUT, GROWN IN THE PROPERTY OF THE PETITIONER, PREPARED BY
THE 2ND RESPONDENT.

EXT.P4: COPY OF THE NOTICE BEARING NO.M5/21609/10 DATED 10.5.2010 ISSUED BY
THE 1ST RESPONDENT.

EXT.P5: COPY OF THE REPRESENTATION DATED 12.5.2010 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P5(A): COPY OF THE JUDGMENT DATED 24.5.2010 IN W.P.(C). 14144/2010 OF THIS
HON'BLE COURT.

EXT.P6: COPY OF THE ORDER DATED 18.5.2010 PASSED BY THE 1ST RESPONDENT.

EXT.P7: COPY OF THE REPRESENTATION DATED 23.7.2010 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P8: COPY OF THE JUDGMENT DATED 23.7.2010 IN W.P.(C).NO.18007/2010 OF THIS
HON'BLE COURT.

EXT.P9: COPY OF THE JUDGMENT DATED 12.11.2010 IN W.P.(C).NO.34147/2010 OF
THIS HON'BLE COURT.

EXT.P10: COPY OF THE ORDER NO.K.DIS./40377/2010/M5 DATED 2.11.2010 PASSED BY
THE 1ST RESPONDENT.

EXT.P11: COPY OF THE REPRESENTATION DATED 9.12.2010 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT ALONG WITH THE DETAILED SKETCH
OF THE ALTERNATIVE ROUTE PROPOSED BY THE PETITIONER BEFORE THE 1ST
RESPONDENT.

EXT.P12: COPY OF THE REPRESENTATION DATED 14.1.2010 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P12(A): COPY OF THE RECEIPT NO.86/2011 DATED 27.2.2011 ISSUED FROM THE
CHENGAMANAD POLICE STATION.

EXT.P13: COPY OF THE ORDER NO.K./DIS/70012/2010/M5 DATED 22.2.2011 PASSED BY
THE 1ST RESPONDENT.

EXT.P14: PHOTOGRAPHS EVIDENCING THE DESTRUCTION OF THE PETITIONER'S
PROPERTY CAUSED BY THE 2ND AND 3RD RESPONDENTS ON 27.2.2011.

EXT.P15: PHOTO COPY OF THE RELEVANT PAGE OF THE REGISTER OF IMMOVABLE
PROPERTIES MAINTAINED BY THE KUNNUKARA GRAMA PANCHAYAT, PERTAINING
TO CHEEROTHITHODU ROAD (AYROOR-MOOZHILKULAM ROAD).

EXT.P16: COPY OF THE SKETCH OF THE CHEEROTHITHODU ROAD AND THE LINES DRAWN BY THE KSEB, THROUGH THE PROPERTY OF THE PETITIONER AND DETAILING THE WIDTH OF THE CHEEROTHITHODU ROAD (AYROOR-MOOZHILAM ROAD).

EXT.P17: PHOTOGRAPHS PERTAINING TO THE WIDTH OF THE CHEEROTHITHODU ROAD.

RESPONDENTS EXHIBITS:

EXHIBIT R1(A): COPY OF THE ROUGH SKETCH IN COMPLIANCE WITH THE ORDERS OF THE ADDITIONAL DISTRICT MAGISTRATE.

EXHIBIT R1(B): COPY OF THE ROUTE SKETCH SUGGESTED BY THE PETITIONERS.

ANNEXURE A1: COPY OF THE ORDER APPOINTING ME AS COMMISSIONER ON 24.8.2012.

ANNEXURE A2: COPY OF THE NOTICE DATED 24.8.2012.

ANNEXURE A3: COPY OF ROUGH SKETCH PREPARED BY ADVOCATE COMMISSIONER

/TRUE COPY/

SKV

P.A. TO JUDGE

C.K.ABDUL REHIM, J.

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W.P.(C). No. 6498 of 2011,

W.P.(C). No. 12837 of 2011

&

W.P.(C). No.15111 of 2011

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Dated this the 6th day of April, 2015

JUDGMENT

Issue involved in all these 3 writ petitions relate to objections raised by the petitioners against drawing of a 33KV single circuit electric line from the 110 KV Sub Station at Kurumassery to the 33KV new Sub Station at Annammanada. Since the issue involved are more or less common all these cases were considered together and disposed of through this common judgment.

2. There were several round of litigations at the instance of the petitioners challenging the orders passed by the District Magistrate after considering their objections permitting drawing of the line through the route suggested by the authorities of the Kerala State Electricity Board (K.S.E.B.) with slight modifications. The petitioner in W.P.(C).15111/2011 is an organisation represented by its Vice President. They are agitating the

cause based on the apprehended injurious affection of the property belonging to the organisation, having an extent of 8 Ares. W.P.(C).No.6498/2011 is filed by an individual with respect to his property having 65.18 Ares which is a garden land cultivated with various crops like Coconut, Arecanut, Nutmeg etc; and having valuable trees like Teak and Mahagony etc. There are three petitioners in W.P.(C). 12837/2011. The first two petitioners are owners of properties having extent of 1.70 cents and the 3rd petitioner is the owner of a small extent of property having 6 cents along with a residence situated therein.

3. The proposal to draw the electric line in question was notified as early as in October,2007. According to the respondents, the total length of the line is about 9 kms. Length of the line covering the area in dispute in all these three cases would come only about 750 Metres. It is stated that the erection works of the electric line in the remaining areas stands completed as early as in the year 2011 and

the line in question was fully drawn in the said area.

4. The objections against drawing of the line was first raised by the petitioner in W.P.(C).No.15111/2011. A reference made under Section 16(1) of the Indian Telegraph Act was adjudicated by the District Magistrate, based on the said objection and an order was passed as early as on 9.11.2009 (Ext.P1 in W.P.(C) 15111/2011). Feasibility with respect to the 3 different routes for drawing of the line were considered in the said order, after conducting a site inspection. The K.S.E.B. authorities suggested slight modification of the original route after taking into consideration of all the aspects. The District Magistrate permitted drawing of the line through the new route proposed, which is noted as "ABCDEFGH" in the said order. The said order was challenged by the petitioner in W.P.(C) 15111/2011 in a writ petition filed before this court as W.P.(C).17670/2010.

5. Meanwhile, the petitioners in W.P.(C).12837/2011

have submitted their objections against drawing of the line in a manner affecting their properties. Since such objections were not considered, they approached this court in a writ petition, W.P.(C).6383/2010. This court directed the District Magistrate to consider the matter in accordance with law. The petitioner in W.P.(C).6498/2011 had also objected drawing of the line through his property. He had also approached this court in a writ petition, W.P.(C) 14144/2010 and obtained similar directions. Based on directions issued by this court in writ petitions W.P.(C) Nos.6383/2010 and 14441/2010, the objections raised by petitioners in W.P.(C).Nos.12837/2011 and 6498/2011 were considered along with the objections raised by certain others. The District Magistrate passed an order on 18.5.2010 (Ext.P1 in W.P.(C).No.12837/2011 and Ext.P6 in W.P.(C).No.6498/2011). The said order was again subjected to challenge before this court in two writ petitions filed as W.P.(C) No.18007/2010 and 18653/2010. Those

writ petitions were considered along with W.P.(C) 17670/2010 filed by the petitioner in W.P.(C). No.15111/2011. All the 3 cases were disposed of through a common judgment of this court passed on 23.7.2010 (Ext.P3 in W.P.(C) 15111/2011). This court primarily observed that, the modification permitted from the original proposal of 'ABCDEFGF' to 'ABCDEFGFH' was with out giving the petitioners an opportunity to raise their objections. Therefore the order passed by the District Magistrate dated 18.5.2010 was set aside and the District Magistrate was directed to pass fresh orders after conducting a site inspection and after hearing all the parties concerned. Accordingly the District Magistrate had reconsidered the matter afresh and passed an elaborate order on 2.11.2010 (Ext.P5 in W.P.(C)12837/2011). All the petitioners in these 3 writ petitions have again challenged the said order by filing W.P.(C).Nos.34147/2010, 34148/2010 and 34216/2010. Through a common judgment dated

12.11.2010 (Ext.P4 in W.P.(C) 15111/2011) this court had set aside the order of the District Magistrate dated 2.11.2010 finding that the District Magistrate had failed in considering the matter with proper application of mind after taking note of the directions contained in the earlier common judgment. It was observed that, the objections raised and the alternate routes suggested by the petitioners were not considered and the District Magistrate had only relied on another judgment of this court in W.P.(C). No.3278/2010, taking into account a mass petition submitted against proposal to change the alignment of the line through 'Kadathukadavu Vazhi'. The matter was remitted for passing fresh orders within a time limit stipulated, with proper application of mind and in a manner stipulated for a proper exercise of the powers conferred under Section 16(1).

6. Pursuant to the common judgment in W.P.(C) Nos. 34147, 34148 and 341216 of 2010, the matter was

considered afresh by the District Magistrate. A fresh proceedings was issued on 22.2.2011 as evidenced from Ext.P9 (in W.P.(C).12837/2011).

7. It is stated that the authorities of the K.S.E.B. had attempted to draw the line even without serving a copy of the above said order on the petitioner in W.P.(C). No.6498/2011. It is alleged that the authorities of the K.S.E.B. had trespassed into the property of the petitioner during midnight and cut and removed various crops standing therein including grown up Coconut and Arecanut trees and valuable trees like Teak and Mahagony etc. With respect to the high handed action of the K.S.E.B. authorities the petitioner had lodged police complaint, and then only a copy of the order of the District Magistrate dated 22.2.2011 was served to the petitioner on 27.2.2011, through police authorities. In the present writ petitions the petitioners are challenging the order passed by the District Magistrate on 22.2.2011 and also seeking incidental relief of direction to

dismantle and remove all the erections done in their properties. The petitioners are also seeking direction to draw the line through the alternate route suggested by the petitioners.

8. Question arising for consideration is mainly with respect to sustainability of the order passed by the District Magistrate, in exercise of powers vested under Section 16 (1) of the Indian Telegraph Act. It is necessary to consider the legality, justifiability and sustainability of the impugned order passed on rejecting the objections raised by each of the petitioners. In W.P.(C).No.6498/2011, the petitioner is the owner of 65.18 Ares of garden land having various agricultural crops and valuable trees. The objections raised by him was first considered by the District Magistrate in his order dated 18.5.2010 (Ext.P6 in W.P.(C).No.6498/2010). It is evident from the said order that the objections were rejected stating that the proposals with respect to the alternate route was already found and declared as not

feasible, in an earlier order passed on 9.11.2009. The order of the District Magistrate dated 18.5.2010 was set aside by this court in the common judgment in W.P.(C). No.17670/2010 and connected cases. Consequently the matter was reconsidered by the District Magistrate while passing the order dated 2.11.2010. The petitioner suggested that the line can be drawn through a public road viz., 'Cheerakathil Road to 'Moozhikulam-Ayiroor Road'. He had also suggested another alternative proposal for drawing underground cable through 'Cheerakathil Road' up to Kurumasseri Sub Station, through 'Moozhikulam-Ayiroor Road'. But the K.S.E.B. authorities had pointed out that the road in question suggested by the petitioner is having only an average width of 4 Metres and by erection of 'lattice poles' of 33 KV line, which require a space of 1 Mtr. x 1 Mtr., the traffic will be severely affected. It was also pointed out that, the road in question is having several curves, which will increase the required number of 'lattice

poles', and also the line will be passing through thickly populated areas requiring cutting down of a lot of vegetations, belonging to several persons. In addition to that it was pointed out that the length of the route will be increased by 220 Metres than the original proposal. With respect to the suggestion for drawing of underground cables, it was pointed out that it will be highly expensive which comes around Rs.60 lack p/km, and hence not practical. In the order of the District Magistrate, after considering feasibility of all the three alternate routes suggested, it was found that none of them are feasible for different reasons. Finding that the alternate routes suggested are as not technically and economically feasible, those suggestions were over ruled and drawing of line through the modified route proposed by the K.S.E.B was allowed.

9. However, the above said order of District Magistrate dated 2.11.2010 was also set aside by this court

in the common judgment in W.P.(C).No.34147/2010 and connected cases, dated 12.11.2010. Evidently, the matter was again considered by the District Magistrate and the order impugned in the present writ petitions dated 22.2.2011 was passed. The District Magistrate considered the alternate proposal suggested by the petitioner in W.P.(C).No.6498/2011 to draw the line through the 'Cheerakathil Road' to 'Moozhikulam-Ayiroor Road' in a manner without crossing his property. The District Magistrate also had taken note of the version submitted by the authorities of the K.S.E.B., that the route proposed is passing only through boundary (extreme side) of the property of the petitioner. It was pointed out that the alternate route is not feasible because drawing of the line through the public road will seriously affect the traffic. All other objections pointing out non-feasibility of the alternate route suggested which were pointed out in the earlier round, was again re-agitated before the District Magistrate.

For a proper consideration of the rival versions, the District Magistrate had also conducted a site inspection. The District Magistrate opined that, placing of 'lattice type posts' along the Road will make hindrance to traffic as the road width is very less and the traffic through the road is more. It was also observed that the road has many curves and the drawing of lines will affect more number of properties and more vegetations have to be cut and removed. The District Magistrate also considered another representation submitted by the petitioner dated 7.2.2011, requesting to have a shift of the line to the extreme south boundary of his property so as to save certain extent of his property falling under the line. The District Magistrate sought for an explanation from the authorities of the K.S.E.B. authorities in this regard. It was pointed out that 3 lattice poles were already erected in the property on taking note of the statutory clearance from adjacent buildings, the open well, and the motor shed situated. Since the three lattice poles

were already erected and part of the works were already completed, any shifting was found not feasible. However, the authorities of K.S.E.B. had conceded that one of the lattice poles could be shifted to the western side of its original position so that line portion within the property can be shifted a bit more to the southern end. Under such circumstances drawing of line through the property of petitioner was permitted through the impugned order.

10. The petitioner in WP(C) No.6498/2011 had sought for appointment of an Advocate Commission from this court to inspect the site and to report about feasibility with respect to drawing of the line through the public roads (Cheerakathil Road to Moozhikulam-Ayroor Road). It was also requested to direct the Advocate Commissioner to report the distances of the routes proposed by the petitioner and the KSEB authorities, which was accepted. This court had appointed an Advocate Commissioner and a report was submitted after conducting inspection. The

Advocate Commissioner reported that if the line is drawn through 'Cheerakathil Road' as suggested by the petitioner, the total length will be 574.2 Metres and the length to be drawn through 'Cheerakathil Road' is 350 Metres. Whereas, length of the line crossing the petitioner's property in the proposal accepted is only 268.80 Metres; and the total length of such route would be 420.40 Metres only. Report of the Commissioner would indicate that the alternate route proposed by the petitioner is through a Road which is not having any consistent width. It is mentioned that the Road is narrow at several points and it is wider in some other portions. It is also reported that the Road has many curves. According to the Advocate Commissioner, if the line is drawn through this route so many valuable trees will have to be cut and properties of others need to be crossed. It is also reported that at the time of inspection a lot of trees were seen cut down in the petitioner's property and lattice poles were seen erected by the authorities.

According to the report 1/10th of the total area of the petitioner's property is covered for the purpose of drawing the line and the remaining property is fully covered by improvements of various crops and valuable trees. The Advocate Commissioner opined that if the line is drawn through the route suggested by the petitioner, the total number of trees required to be cut would have been less and the damage caused to the petitioner's property could have been avoided.

11. The Electricity Board had filed objections to the report of the Advocate Commissioner. It is pointed out that in the sketch produced along with the report there is an omission to specifically indicate that the line if drawn through the route suggested by the petitioner, it would affect seven residential buildings. According to the KSEB, the 'Cheerakathil Road' is having only an average width of 4 Metres and the width varies at different places. It is stated that the Road in question is having many curves and

hence line can be drawn only in a 'zig-zag' manner. According to the Board, erection of 'lattice pole' requires a space of 1 M x 1 M at each footing and it will result in causing obstruction to the traffic and danger to human life. If it is drawn through the Road in question, as proposed by the petitioner, it will affect several residential buildings on both sides and several trees have to be cut and removed, is the contention.

12. The petitioner had also filed I.A.No.1642/2004 seeking to set aside the report of the Advocate Commissioner, raising various objections. The distances pointed out by the Advocate Commissioner with respect to different routes was disputed. Facts reported by the Commissioner with respect to width and lie of 'Cheerakathil Road' was also disputed. According to the petitioner, all facts verified at the time of inspection was not truly reported and the report was submitted in a highly erroneous manner. Ext.P15, the extract of relevant pages

of the Register maintained by the Grama Panchayath is also produced in order to show that 'Cheerakathil Road' is having more width than what was reported by the Advocate Commissioner. Ext.P16 Sketch and Ext.P17 photographs are also produced in support of the contentions raised. But this court is not in a position to appreciate such objections, without there being any convincing materials to prove that the facts reported by the Advocate Commissioner is not true and correct. The Commission report would categorically mention about the width of the Road at various points, supported by a rough sketch produced. Mere dispute raised on the factual aspects reported by the Commissioner, cannot be taken as a ground to set aside the commission report. Further, it is highly discourteous on the part of the petitioner to raise allegations of malafides attributed against the Advocate Commissioner, who is an officer of this court, duly appointed to conduct a local inspection.

13. Fact remains that the District Magistrate had

considered the objections raised by the petitioner in the repeated orders passed by him on different dates. Feasibility of the alternate routes suggested by the petitioner was examined based on opinions collected from the authorities of the K.S.E.B. Going by the relevant provisions contained in the Indian Telegraph Act, read with the relevant provisions in the Electricity Act 2003 the authority concerned is empowered to place any electric line, post or apparatus in any private property belonging to individuals. Power vested on the District Magistrate under Section 16(1) of the Act is only to the extent of considering sustainability of obstructions or resistance caused with respect to such exercise of the powers vested on the authority. Power conferred on the District Magistrate is to grant permission to the authority to exercise powers vested under Section 10 of the Act, if such resistance is not sustainable. Of course, while exercising such power, the District Magistrate is empowered to consider feasibility of

the route suggested by the authorities of the K.S.E.B vis-a-vis alternate route if any, suggested by the obstructor. While considering such feasibility the District Magistrate has to make a comparative assessment of the different routes, with emphasis given to its length, cost, technical feasibility, extent of damage etc. While making such comparison the most important aspect is the technical feasibility especially in a case of high voltage electric lines of 33 KV or 110 KV. On the question of technical feasibility the District Magistrate had to accept opinion of the authorities of the Board. In a decision of this court in ***Elizabeth George and Others v Deputy Chief Engineer, K.S.E.B., Kottayam and Others [2013 (3) KHC 686]*** a learned judge observed that, it is purely within the technical expertise of KSEB to identify the routes through which the line could be drawn. The District Magistrate's jurisdiction is only to consider whether the resistance or objection of the land owner is justifiable or not. If the alternate route

suggested is found by the K.S.E.B. as technically feasible and if it is approved by them, necessarily the District Magistrate can evaluate whether the said proposal can be considered. Once the K.S.E.B. comes out with an opinion that the alternate route suggested is not technically feasible, the District Magistrate cannot have a different opinion in regard to the said route. Regarding the scope of interference by this court on orders passed the District Magistrate in exercise of powers vested under Section 16, it is observed in the above decision that, the District Magistrate will have to take a decision after considering the objections relating to the difficulties of persons in occupation of the land. If the decision taken by the District Magistrate is actuated by consideration of bad faith or fraud or if it is actuated to by an arbitrary decision, interference by this court is justified. Only if the material placed on record establishes any illegality, the interference is justified. In the case at hand the alternate routes suggested by the

petitioner in W.P.(C)6498/2011 was examined in detail by the District Magistrate and the reasons for non-acceptance of such suggestions were well explained in the impugned order. This court cannot sit in appeal over those factual findings arrived at by the said authority. Further, it is evident that drawing of the line in question was completed through the entire remaining length of the route. As far as the petitioner in W.P.(C)6490/2011 is concerned, the route for drawing of the line through his property was cleared by cutting and removal of trees and by placing few number of 'lattice poles'. Therefore interference against the impugned order at this stage is not at all warranted. Moreover it is noticed that the petitioner had submitted a proposal before the District Magistrate seeking to shift the line more close to the southern boundary, which was partially accepted. Therefore Ext.P13 order does not call for any interference. However, it is made clear that the petitioner will be entitled for getting adequate compensation as contemplated under

Section 16(3) of Indian Telegraph Act, for which necessary steps need to be taken by the respondents.

14. With respect to W.P.(C)15111/2011 the matter was initially considered by the District Magistrate in Ext.P1 order, dated 9.11.2009 and all the three alternate routes suggested were rejected by the District Magistrate for appropriate reasons mentioned for non-acceptance of those routes. Ext.P1 order was issued slightly modifying the route taking into consideration of the inconveniences pointed out by the objectors. However Ext.P1 order was set aside by this court and a fresh order as per Ext.P7 was issued by the District Magistrate as on 22.2.2011. It is evident from the said order that, considering the request made by the petitioner in W.P.(C)15111/2011 the line proposed through their property was accepted to be shifted to the northern boundary. As already observed, with respect to the feasibility of the route and viability of the alternate suggestions, the District Magistrate had extensively

considered all the aspects. Therefore interference with respect to the impugned order is not at all warranted on the facts of the said case.

15. In W.P.(C)12837/2011, it is evident that the objections raised by the petitioners were considered in various orders passed by the District Magistrate, on 18.5.2010, on 2.11.2010 and on 22.2.2011. In the first order itself the District Magistrate observed that the alternate routes suggested by the objectors were found to be not feasible. Specific objections raised by the petitioners in W.P.(C)No.2837/2011 was considered elaborately in the order passed on 2.11.2010. It was found that deviations suggested by petitioners 1 and 2 were not accepted as it would pass through the center of the property of other persons, whereas the route will pass only through the boundary of the property of those petitioners. With respect to objections raised by the third petitioner it is found that, the line in question is intended to be drawn only along the

route where the LT lines already existed. It was found that there is neither any chance of causing any health problem nor there is any dangerous situation being caused to the 3rd petitioner. In the last order of the District Magistrate dated 22.2.2011, with respect to the objection of the petitioners, it was observed that the alternate routes proposed were not found to be technically feasible. The reasons for not accepting the alternate suggestion were elaborately discussed therein, based on facts illustrated by the Assistant Executive Engineer. Ultimately the District Magistrate had arrived at a conclusion that deviation of the route suggested by the petitioners is not technically feasible. This court does not find any reason to hold that such a finding suffers from any illegality, arbitrariness or unreasonableness. The factual aspects concluded in such findings cannot be re-evaluated or re-appreciated in exercise of powers vested under Article 226 of the Constitution of India.

16. Under the above mentioned circumstances, challenge raised in all the above three writ petitions against the order of the District Magistrate dated 22.2.2011, cannot be accepted. Hence these writ petition deserves no merits and the same are hereby dismissed.

17. However it is made clear that, the petitioners will be at liberty to seek appropriate remedy for getting compensation with respect to the cutting and removal of trees as well as with respect to the injurious affection of their properties, to the extent permissible under law. Needless to observe that the respondent shall take effective steps to settle such claims, without any further delay.

Sd/-

C.K.ABDUL REHIM, JUDGE.