

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

WP(C).No. 12219 of 2012 (B)

PETITIONER:

HARISH.V.K., AGED 52 YEARS
VALLIYATH HOUSE, NELLIKALA.P.O
PATHANAMTHITA DISTRICT.

BY ADVS.DR.K.P.SATHEESAN
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR

RESPONDENT(S):

1. DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA, PIN-689640.
2. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION
PATHANAMTHITTA, PIN-689640.
3. THE ASSISTANT ENGINEER,
ELECTRICAL MODEL SECTION
KERALA STATE ELECTRICITY BOARD.KOZHANCHERRY
PATHANAMTHITTA DISTRICT, PIN-689641.

R1 BY SR.GOVERNMENT PLEADER SRI P.P.PADMALAYAN
R2 AND 3 BY ADV. SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB
BY SRI.K.M.SATHYANATHA MENON,SC,KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27-03-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT-P1 TRUE COPY OF THE NOTICE GIVEN BY THE 3RD RESPONDENT TO THE PETITIONER DATED 11.1.2010 WITH ENGLISH TRANSLATION.
- EXT-P2 TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE FIRST RESPONDENT DATED 23.11.2010 WITH ENGLISH TRANSLATION
- EXT-P3 TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER DATED 5-3-2012 TO THE 3RD RESPONDENT WITH ENGLISH TRANSLATION.

RESPONDENTS' EXHIBITS:

ANNEXURE R2(A): COPY OF ROUGH SKETCH OF THE ROUTE.

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.12219 Of 2012

DATED THIS THE 27th DAY OF MARCH, 2015

JUDGMENT

The petitioner has filed this Writ Petition seeking a writ of mandamus commanding the third respondent to refer the dispute raised by the petitioner as per Ext.P3 to the District Magistrate, before drawing or energising the three phase line across his residential house.

2. Going by the averments in the writ petition, there is an existing electric line, passing adjacent to the petitioner's residential building, which was drawn after erecting poles on the Panchayat road in front of his residential building. The respondent-Board made a proposal to change the electric line as a three phase line. It was in connection with the said proposal, the petitioner was issued with Ext.P1 letter, by which he was asked to cut and remove branches of certain rubber trees standing on his property.

3. On receipt of Ext.P1, the petitioner submitted Ext.P2 representation before the first respondent, the District Collector, Pathanamthitta, which was followed by Ext.P3 representation before the third respondent. It was thereafter the petitioner has

approached this Court in this writ petition seeking various reliefs.

4. A statement has been filed on behalf of respondents 2 and 3. Paragraphs 4 and 5 of the statement read thus:

" 4. The 3 phase conversion work as proposed to improve the voltage at that area as per the request from the consumers and elected representatives of that area. The voltage improvement work was sanctioned vide Administration Sanction No.21/11-12/25-02-2011 of Assistant Executive Engineer, Electrical Sub Division, Kozhencherry and Technical sanction No.45/11-12/27-02-2011 of Assistant Executive Engineer, Electrical Sub Division, Kozhencherry for ₹84,000/-. The maintenance work for changing the damaged electric post and line of the location were incorporated with this voltage improvement work and the same was charged on 15-03-2012. The converted 3 phase line is also not crossing the petitioner's property. Hence the allegations of the petitioner are baseless.

5. By converting single phase line to 3 phase line the system voltage was not changed it is still 415 V (Low Tension). Hence no change is required in statutory clearance and no new danger was caused by this line. The petitioner's house had been extended up to the boundary wall by using asbestos sheets and providing pillars on the boundary wall. This construction was violating rules and petitioner extended the house nearer to electric line without obtaining permission from the authorities."

5. The respondents have also filed a sketch of the property which has been marked as Ext.R2(a) along with the statement. The sketch would make it explicit that the existing

line is passing through the Panchayat road in front of the petitioner's residential building, after erecting two poles just in front of his house. Going by the specific stand taken by the respondent-Board in its statement, as the electric line was drawn after maintaining the statutory clearance from the petitioner's residential building, even after the conversion of the single phase electric line as a three phase line, the said statutory clearance is still maintained. A reading of the statement would show that even after conversion into 3 phase line the system voltage continues as 415V (Low Tension) and therefore, there is no charge in the required statutory clearance. The statement would further show that the petitioner has made some extension to the boundary wall by using asbestos sheets and providing pillars on the boundary wall, in violation of the rules and without obtaining prior permission.

6. The main argument of the learned counsel for the petitioner is that when there is a proposal by the respondent-Board to change the single phase electric line passing through the pathway in front of his property as a three phase line and when the said proposal is objected to by the petitioner, the respondent-

Board should have referred the matter to the District Magistrate under Section 16(1) of the Indian Telegraph Act, 1885. I am unable to agree with the said contention. A reference to the District Magistrate under Section 16(1) of the Indian Telegraph Act arises only when there is a proposal on the side of the Board to draw new electric lines or to shift an existing line. In the case on hand, the work in question involves only conversion of single phase electric line to a three phase line, which does not involve any shifting of the existing electric posts erected in the Panchayat road in front of the petitioner's property. In such circumstances, the contention raised by the petitioner that even for such work permission from the District Magistrate under Section 16(1) of the Indian Telegraph Act is required can only be rejected and I do so.

I find absolutely no merit in the various contentions raised in the Writ Petition. The Writ Petition fails and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA,
JUDGE

dsn