

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WP(C).No. 13499 of 2011 (J)

PETITIONER :-

**HARI SANKER,
'SREENIKETHAN',
NEDUMPARA,
THATTATHUMALA P.O.,
TRIVANDRUM.**

**BY ADVS.SRI.M.ZIYADVENJARAMOODU
SRI.SANU.S.PANICKER**

RESPONDENTS :-

**1. ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION,
KILIMANNOOR
PIN - 695 601.**

**2. PRIYA.R.,
POTTALIL VEEDU,
NEDUMPARA,
THATTATHUMALA P.O.,
PIN - 695 614.**

**3. ADDITIONAL DISTRICT MAGISTRATE,
THIRUVANANTHAPURAM,
PIN - 695 001.**

**R1 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB
SRI.P.P.THAIJUDEEN, SC, KSEB**

**R2 BY ADVS. SRI.RENJITH B.MARAR
SRI.L.RAJESH NARAYAN**

R3 BY SMT.M.J.RAJASHREE, SENIOR GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rkj

WP(C).No. 13499 of 2011 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :-

**EXHIBIT P1 : TRUE COPY OF THE ORDER DATED 25.04.2011 PASSED BY THE
3RD RESPONDENT.**

RESPONDET(S)' EXHIBITS :-

EXHIBIT R1(A) : TRUE COPY OF THE ROUGH SKETCH OF THE ROUTE.

EXHIBIT R1(B) : TRUE COPY OF THE NEW ROUTE MAP.

rkj

//TRUE COPY//

P.A. TO JUDGE

ANIL K.NARENDRA, J

W.P.(C)No.13499 of 2011

Dated this the 11th day of March, 2015

JUDGMENT

The petitioner has filed this writ petition seeking a writ of certiorari to quash Ext.P1 order passed by the 3rd respondent and also seeking a writ of mandamus commanding the 3rd respondent to determine the compensation under Section 10 of the Indian Telegraph Act, if any, for the trees to be cut and removed for effecting service connection to the 2nd respondent. On 13.05.2011, this Court passed the following order;

“In case the line is not already drawn in terms of Ext.P1 order, the same shall not be drawn for a period of three weeks. In case it is already drawn, but not energised it shall not be energised for the same period.”

2. Though the said order was only for a period of three weeks, the writ petition was not thereafter brought up for seeking extension of the said interim order.

3. According to the petitioner, based on a request made by the 2nd respondent, the 1st respondent made a

proposal for drawing electric line from an electric post standing on his property. Since the proposal was objected to by the petitioner, the 1st respondent referred the matter to the third respondent under Section 16 of the Indian Telegraph Act, 1885. After considering the objection raised by the petitioner, the 3rd respondent by Ext.P1 order dated 25.04.2011 granted permission to the 1st respondent to draw the line as per the proposal submitted by the Board. It was also made clear in Ext.P1 that, the request of the petitioner to shift the poles should be considered by the Board in accordance with the existing rules. It is aggrieved by Ext.P1 order, the petitioner is before this Court in this writ petition.

4. A counter affidavit has been filed on behalf of the first respondent, in which it has been stated that going by the proposal made by the first respondent, which is now approved by the third respondent in Ext.P1 proceedings, 14 metres electric line will cross the property of the petitioner and the remaining 97 metres overhead line is through the pathway used by the 2nd respondent,

who is the beneficiary. It is further stated in the counter affidavit that, no trees are required to be cut for effecting service connection.

5. Regarding the request made by the petitioner for shifting the electric post standing on his property, which is ordered to be considered in Ext.P1 order, it is stated in the counter affidavit that, the electrical section concerned has prepared an estimate of ₹10,116/- for shifting the existing poles in the property owned by the petitioner so that the petitioner can use the path way on the western side. The said fact was intimated to the petitioner herein and he was demanded to remit the said amount for the purpose of shifting the line. But the petitioner was not ready to remit the said amount. A rough sketch of the route proposed, which is also approved by the third respondent, is produced as Ext.R1 (a) along with the counter affidavit. Ext.R1(b) is the route map.

6. I have considered the contentions raised in the writ petition by the petitioner and heard the arguments of

the learned Standing Counsel for the Kerala State Electricity Board, and also the learned Government Pleader appearing for the third respondent.

7. Reading of the Ext.P1 order passed by the third respondent would show that, after considering the objection raised by the petitioner, the third respondent has accepted the proposal made by the first respondent to draw electric line to the residential building of the second respondent from an electric post standing on the property of the petitioner. The materials on record clearly indicate that, the proposal made by the first respondent to draw electric line to the residential building of the second respondent is a technically feasible route causing least inconvenience to the petitioner. As I have already noticed, the specific stand taken by the first respondent in his counter affidavit is that, the route proposed and approved by the 3rd respondent in Ext.P1 involves only 14 metre overhead line crossing the property of the petitioner and no tree cutting is also required for effecting service connection to the residential building of the

second respondent. Though based on Ext.P1 order, the Electricity Board prepared an estimate of ₹10,116/- for shifting the existing electric post standing on the petitioner's property, he was not even prepared to remit the said amount. Therefore, I find absolutely no illegality or irregularity in Ext.P1 order passed by the third respondent, warranting any interference by this Court under Article 226 of the Constitution of India.

In the result, this writ petition fails and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE