IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 13133 of 2015 (N)

PETITIONER(S):

P.GOPINATHAN NAIR
KADUKARA HOUSE, AYATHIL PO, KOLLAM-17.

BY ADV. SRI.K.SUBASH CHANDRA BOSE

RESPONDENT(S):

1. THE DISTRICT COLLECTOR (DISTRICT MAGISTRATE)
KOLLAM-691 013.

2. EXECUTIVE ENGINEER,
PALLIMUKKU ELECTRICAL MAJOR SECTION, PALLIMUKKU
KOLLAM-691 013.

3. ASST. EXECUTIVE ENGINEER,
PALLIMUKKU ELECTRICAL MAJOR SECTION, PALLIMUKKU
KOLLAM-691 013.

R1 BY GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKEN
R2 & 3 BY ADV. SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VS

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE COPYOF THE BASIC TAX RECEIPT DATED 19-9-2013.

EXT P2 : TRUE COPY OF COMPLAINT DATED 23-10-2013.

EXT P3 : TRUE COPY OF THE JUDGMENT IN WPC.NO.577 OF 2014 DATED 21-1-2014 BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM.

EXT P4 : TRUE COPY OF THE ORDER/REPLY ISSUED BY THE 3RD RESPONDENT DATED 3-2-2014.

EXT P5 : TRUE COPYOF THE SKETCH SHOWING THE PRESENT LOCATION OF THE TRANSFORMER AND THE ALTERNATE SITE FOR SHIFTING THE TRANSFORMER.

EXT P6 : TRUE COPY OF THE PETITION SUBMITTED BEFORE THE DISTRICT COLLECTOR, KOLLAM.

EXT P7 : TRUE COPY OF THE LETTER DATED 1-1-2015

EXT.P8 : TRUE COPY OF THE APPLICATION FILED BEFORE THE REVENUE DIVISIONAL OFFICER DATED 19.2.2014

EXT.P9 : TRUE COPY OF THE REPORT FILED BEFORE THE REVENUE DIVISIONAL OFFICER DATED 23.2.2014, BY THE VILLAGE OFFICER, VADAKKEVILA.

EXT.P10 : TRUE COPY OF THE APPLICATION SUBMITTED BEFORE THE ASSISTANT TAHSILDAR FOR SURVEYING THE PROPERTY.

EXT.P11 : TRUE COPY OF THE NOTICE RECEIVED FROM THE ADDITIONAL TAHSILDAR DATED 28.11.2014

EXT.P12 : TRUE COPY OF THE LETTER SENT BY REGISTERED POST DATED 15.12.2014.

EXT.P13 : TRUE COPY OF THE RECEIPT NO.1573 DATED 24.9.2014

EXT.P14 : TRUE COPY OF PAGES 1 & 2 OF MANUAL 5/1975

EXT.P15 : T RUE COPY OF PAGE 17 OF ELECTRICAL INSPECTORATE TECHNICAL DIARY 2014.

EXT.P16 : TRUE COPY OF PAGE 26 OF ELECTRICAL INSPECTORATE TECHNICAL DIARY.

RESPONDENT(S)' EXHIBITS

ANNEXURE R3(a) : TRUE COPY OF THE SKETCH SHOWING THE LOCATION OF TRANSFORMER AND THE BUILDING OF THE PETITIONER.

/TRUE COPY/

PA TO JUDGE

VS

V.CHITAMBARESH, J

W.P.(C).No.13133 of 2015

Dated this the 17th day of June, 2015

JUDGMENT

The parties are at variance as to where the electricity transformer is located. The petitioner contends that the transformer is erected within the boundaries of his property. The Electricity Board maintains that the transformer is located on the public road only. Ext.P4 letter of the third respondent indicates that the transformer is on the public road. This is also supported by Ext.R3(a) sketch prepared by the third respondent.

2. The petitioner is not prepared to depute an Advocate Commissioner even though suggested. The only option therefore is to accept Ext.P4 letter and Ext.R3(a) sketch. Section 17 of the Telegraph Act, 1885 cannot be invoked by the petitioner therefore. {See: **Sunil Kumar v. Kerala State Electricity Board** [2015(1)KLT 519]}. The petitioner can invoke Section 17 of the Telegraph Act, 1885, only if it is proved that the transformer is within his property.

3. The petitioner is of course not without any other remedy. The petitioner can as well invoke the Works of Licensees Rules, 2006. The petitioner shall move the third respondent appropriately for shifting the transformer to a safer spot. Any such motion shall be dealt with by the third respondent on the basis of the relevant inputs. The Electricity Board has in Ext.P7 letter expressed their readiness to shift the transformer to any other suitable place if found.

4. No circumstance exists to warrant any other directions.

The Writ Petition is disposed of.

Sd/-
V.CHITAMBARESH
JUDGE

vs