

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 22169 of 2010 (U)

PETITIONER(S):

1. **BALAS, S/O.HENTRY, ROY HOUSE, PONGUVILA,
CHEMBAZHANTHI, ULIAZHUTHURA, THIRUVANANTHAPURAM.**
2. **VIJAYARAJ,
S/O.BALAS, ROY HOUSE, PONGUVILA
CHEMBAZHANTHI, ULIAZHUTHURA, THIRUVANANTHAPURAM.**
3. **ROY,S/O.BALAS,ROY HOUSE, PONGUVILA,
CHEMBAZHANTHI, ULIAZHUTHURA, THIRUVANANTHAPURAM.**

BY ADV. SMT.S.MUMTAZ

RESPONDENT(S):

1. **THE DISTRICT MAGISTRATE
THIRUVANANTHAPURAM.**
2. **THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD, KATTAKKADA
THIRUVANANTHAPURAM.**
3. **ASST.EXECUTIVE ENGINEER,
220 KV LINE CONSTRUCTION SECTION
KERALA STATE ELECTRICITY BOARD, KATTAKKADA.**

**R,R2 & 3 BY ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B
R,R2 &3 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB
R BY GOVERNMENT PLEADER SMT.P.A.REZIYA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1(a): TRUE COPY OF BASIC TAX RECEIPT IN THE NAME OF 1ST PETITIONER.

EXHIBIT P1(b): TRUE COPY OF BASIC TAX RECEIPT IN THE NAME OF 2ND PETITIONER

EXHIBIT P1(c): TRUE COPY OF BASIC TAX RECEIPT IN THE NAME OF 3RD PETITIONER

EXHIBIT P2(a): TRUE COPY OF THE LIST OF TREES CUT AND REMOVED FROM THE PROPERTY OF THE 1ST PETITIONER AS GIVEN BY THE 3RD RESPONDENT.

EXHIBIT P2(b): TRUE COPY OF THE LIST OF TREES CUT AND REMOVED FROM THE PROPERTY OF THE 2ND PETITIONER AS GIVEN BY THE 3RD RESPONDENT.

EXHIBIT P2(c): TRUE COPY OF THE LIST OF TREES CUT AND REMOVED FROM THE PROPERTY OF THE 3RD PETITIONER AS GIVEN BY THE 3RD RESPONDENT

EXHIBIT P3(a): TRUE COPY OF COMPLAINT SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

EXHIBIT P3(b): TRUE COPY OF COMPLAINT SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT P3(c): TRUE COPY OF COMPLAINT SUBMITTED BY THE 1ST PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT(S)' EXHIBITS

EXHIBIT R3(a): PHOTOCOPY OF THE GAZETTE NOTIFICATION DATED 3.03.2009.

EXHIBIT R3(b): A ROUGH SKETCH SHOWING THE PROPOSED ELECTRIC LINE ROUTE PASSES THROUGH THE PETITIONERS' PROPERTY.

//TRUE COPY//

PA. TO JUDGE

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ANIL K. NARENDRA, J.

W.P.(C) No.22169 of 2010

Dated this the 26th day of February, 2015

JUDGMENT

The petitioners have filed this writ petition seeking an appropriate writ order or direction prohibiting the second respondent from putting up a tower and drawing 220 KV transmission line through their property having an extent of 32.25 Ares comprised in resurvey Nos.13/14, 137/11, 137/12, 137/15, 137/16, 137/17 & 137/18 of Uliyarathura village in Thiruvananthapuram Taluk. They have also sought a writ of mandamus commanding the first respondent to consider and pass appropriate orders on Exhibit P3 representation submitted by them.

2. Respondents 2 and 3 have filed a counter affidavit contending that the Kerala State Electricity Board started construction of 220KV transmission line from 220KV Substation at Pothencode to Kattakada by drawing 30Kms. transmission line, as a part of project system improvement works, by investing about 112

crores. Exhibit R3(a) is a Gazette notification dated 3.03.2009, published by the Board in this regard and the competent authority has approved the route after considering the technical and financial implications. It is further stated in the counter affidavit that, the construction of the 220KV Substation at Kattakada and also the construction of the 220KV transmission line are in full swing. To cause minimum inconvenience to the public, the Board is drawing the transmission line mainly through paddy fields. The route of the 220KV transmission line has been fixed after studying various alternatives and it is now being drawn through the most feasible route causing the least inconvenience to the public. The Board has also produced Exhibit R3(b) sketch showing the lie of the property owned by the petitioners and also the route of the 220KV transmission line which passes through their property. The Board has also stated in the counter affidavit that tree cutting notices were served during August 2009 and the trees were cut and removed in September, 2009, in the presence of the

property owners.

3. I have considered the contentions raised by the petitioners in the writ petition and also heard the learned Standing Counsel for the respondent Board.

4. A reading of the materials on record clearly indicate that the Board has drawn the 220KV transmission line after publishing Exhibit R3(a) Gazette notification under Sections 164 and 182 (2) (b) of the Electricity Act, 2003. The various averments made in the counter affidavit clearly indicate that, the drawing of the transmission line is undertaken by the Board after complying with all the statutory requirements. The said counter affidavit would further show that, the Board has finalised the route of the said transmission line after conducting technical study and the most feasible route causing least inconvenience to the general public has been selected.

5. Though the respondent Board has filed counter affidavit as early as on 22.07.2010, with copy to the learned counsel for the petitioners, the petitioners have

not chosen to file any reply affidavit refuting the specific stand taken by the Board in its counter affidavit that, the transmission line in question is drawn through a route finalised after conducting technical study and that the route in question is the most feasible route causing least inconvenience to the general public. Though the petitioners have contended that there is an alternate route to draw transmission line without their property being affected, they have not chosen to produce any materials to show the availability of such an alternate route. They have also not produced any sketch showing the alternate route available. Further, the officials of the Board conducted route survey during the year 2003 and stones were erected in the petitioner's property for erecting the tower at Angle Point No.64 of the 220KV transmission line. As evident from Exhibit R3(5) the petitioners were served with tree cutting notices in September, 2009 and after cutting the trees compensation amount was disbursed to them during March, 2010. It was after starting the piling work the

petitioners have approached the respondent with an application under the Right to Information Act, 2005 for getting a copy of the drawing for the tower foundation on their property.

6. From the materials on record I find absolutely no ground to interfere with the action of the respondent Board in drawing 220KV transmission line over the petitioners' property after erecting a tower.

In the result, the writ petition is dismissed.

Sd/-
ANIL K. NARENDRAN
JUDGE

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//TRUE COPY//

P.A. TO JUDGE

