

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 24043 of 2014 (E)

PETITIONER:

NISHA JOY, AGED 35 YEARS,
W/O.JOY C.AMBROSE, CHAKKALAKAL HOUSE
NEAR ST.AMBROSE CHURCH, EDAVANAKKAD
ERNAKULAM DISTRICT

BY ADVS.SRI.C.P.PEETHAMBARAN
SRI.M.X.ANTONY LIJO

RESPONDENTS:

1. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
NJARACKAL, ERNAKULAM DISTRICT - 682 505.
2. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
NJARACKAL, ERNAKULAM DISTRICT - 682 505.
3. JOY, S/O.JOSSA, KOLLATTUTHARA VEETIL HOUSE,
KAITHARAM, PARAVUR ERNAKULAM DISTRICT - 683 519.

R3 BY ADV. SRI.P.A.HILAL
R3 BY ADV. SRI.SAIJU S.
R3 BY ADV. SRI.P.H.RISHAD
BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE JUDGMENT DATE 24-1-2008 IN
 O.S.NO.181/2007 OF MUNSIFF COURT, KOCHI.
- EXT.P2 - TRUE COPY OF THE REPRESENTATION DATED 12-9-2014
 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 24043 OF 2014

Dated this the 15th day of January, 2015

JUDGMENT

The petitioner is aggrieved by the proposed move of respondents 1 and 2 to shift the electricity post to a pathway leading to her pathway. The petitioner asserts that the pathway belongs to her absolutely and relies on Ext.P1 judgment. Respondents 1 and 2 contend that there was a compromise decree in O.S. No. 331/2011. It is only in accordance with the decree has the steps been taken to draw the electricity line.

2. The petitioner has a case that she was subsequently deleted from the party array in O.S. No. 331/2011. The petitioner has in this regard submitted Ext.P2 representation to the first respondent. The first respondent shall consider Ext.P2 representation with notice to the petitioner and the third respondent. The needful shall be done within a period of one month from the date of receipt of a copy of this judgment.

3. The first respondent shall invoke Section 17 of the Indian Telegraph Act in case it is prima facie found that the

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pathway also belongs to the petitioner. Otherwise the first respondent is free to invoke other provisions of law which permit shifting of electricity line beyond the boundary. Such liberty is given to the first respondent dehorse the decree in O.S. No. 331/2011. This is because the petitioner is not a party to O.S. No. 331/2011 wherein a compromise decree was passed.

4. The status quo obtaining as on today shall be maintained till the proceedings are taken to a logical end as directed.

The Writ Petition is disposed of.

**V. CHITAMBARESH
JUDGE**

ncd