

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR**

**WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937**

**WP(C).No. 25599 of 2015 (Y)**  
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**PETITIONER :**  
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**ANIL S., AGED 40 YEARS,  
S/O.P.V. SUNDARAN, RESIDING AT SAROJA MANDIRAM,  
KADEPPILLY ROAD, UC COLLEGE P.O., ALUVA  
ERNAKULAM DISTRICT, PIN 683102**

**BY ADVS.SRI.C.AJITH KUMAR (KALLESSERIL)  
SRI.C.ANILKUMAR (KALLESSERIL)**

**RESPONDENTS :**  
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**1. ADDL. DISTRICT MAGISTRATE,  
ERNAKULAM**

**2. KERALA STATE ELECTRICITY BOARD  
VYDHUTHI BHAVANAM, PATTOM PALACE P.O.,  
THIRUVANANTHAPURAM - 695003  
REPRESENTED BY ITS SECRETARY**

**3. THE ASSISTANT EXECUTIVE ENGINEER,  
ELECTRICAL SUB DIVISION, KSEB, ALUVA**

**R1 BY GOVERNMENT PLEADER SRI. R. RANJITH  
R2 & R3 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 09-09-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:**

**bp**

WP(C).No. 25599 of 2015 (Y)

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**APPENDIX**

**PETITIONER(S)' EXHIBITS**

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- P1: TRUE COPY OF THE COMPLAINT DATED 18.07.2011 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P2: TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED FROM KADUNGALLUR GRAMA PANCHAYTH DATED 20.08.2011.
- P3: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DT. 28.05.2015.
- P4: THE COPY OF THE ORDER NO. K.DIS/50967/2011/MS DATED 23.07.2015
- P5: PHOTOGRAPH SHOWING THE CONCRETE SLABS LAID DOWN IN A WAY OBSTRUCTING PETITIONER'S PROPOSED CONSTRUCTION OF WORKSHOP

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

**A.K.JAYASANKARAN NAMBIAR, J.**

.....  
W.P.(C).No.25599 of 2015

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Dated this the 9<sup>th</sup> day of September, 2015

**J U D G M E N T**

The petitioner has preferred Ext.P1 complaint before the 1<sup>st</sup> respondent aggrieved by the alleged action of the 3<sup>rd</sup> respondent in proposing to erect an 11 KV transformer in front of the petitioner's residential house. It is the stand of the petitioner in the writ petition that an order on Ext.P1 complaint was passed by the 1<sup>st</sup> respondent without considering the relevant facts, and the prejudice that would be caused to the petitioner by the installation of the transformer at the said location. In the writ petition, the petitioner also has a case that, Ext.P4 order that is impugned in the writ petition was passed by an officer who was not the officer who heard the petitioner, and therefore, Ext.P4 is vitiated by a non-compliance with the rules of natural justice as well.

2. I have heard the learned counsel for the petitioner, learned Standing counsel for the respondent Board and the learned Government Pleader for the 1<sup>st</sup> respondent. Learned Standing counsel for the respondent Board would point out that, the transformer in the instant case is situated out side the boundary of the property of the petitioner and is actually situated in public property. It is therefore pointed out that, the petitioner cannot be said to be a person

aggrieved by the installation of the transformer for the purposes of conferring a jurisdiction on the 1<sup>st</sup> respondent to decide the matter in accordance with Section 16 (1) of the Telegraph Act, 1885.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find force in the contention of the learned Standing counsel of the respondent Board that an application before the 1<sup>st</sup> respondent under Section 16 (1) of the Telegraph Act 1885 cannot be maintained in respect of a proposed installation of a transformer, when the same is not in the private property of any person. The reliance placed, by the learned Standing counsel for the respondent Board, on the decision of this Court in **Sudeesh v. KS.E.B. [2009 (3) KLT 860]** is well founded as regards this issue. Accordingly, I do not see any reason to interfere with Ext.P4 order of the 1<sup>st</sup> respondent in these proceedings under Article 226 of the Constitution of India. The writ petition fails and is accordingly dismissed.

**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

mns

