

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

WP(C).No. 28960 of 2013 (T)

PETITIONERS:

- 1. JAIJY MATHEW**
S/O. MATHEW, AGED 49 YEARS
ERAMPADATHIL (KALAYATHINANICKAL) HOUSE
KOOTHATTUKULAM
NOW RESIDING ATBLUE LAGOON APARTMENTS
CHILAVANNOOR ROAD, KADAVANTHRA, COCHIN - 682 020.
- 2. DR. DEEPTHI JAIJY,**
W/O. JAIJY MATHEW
ERAMPADATHIL(KALAYATHINANICKAL) HOUSE
KOOTHATTUKULAM
NOW RESIDING ATBLUE LAGOON APARTMENTS
CHILAVANNOOR ROAD, KADAVANTHRA, COCHIN - 682 020.

BY ADVS.SRI.M.K.DAMODARAN (SR.)
SRI.P.K.VIJAYAMOHANAN
SRI.GILBERT GEORGE CORREYA
SRI.ALAN PAPALI

RESPONDENTS:

- 1. DISTRICT COLLECTOR, ERNAKULAM**
PIN - 682 030.
- 2. ADDITIONAL DISTRICT MAGISTRATE,**
ERNAKULAM 682 030.
- 3. KERALA STATE ELECTRICITY BOARD,**
REPRESENTED BY ITS SECRETARY, VYDHUTHI BHAVAN, PATTOM
THIRUVANANTHAPURAM - 695 004.
- 4. EXECUTIVE ENGINEER, TMR**
TMR KERALA STATE ELECTRICITY BOARD
ANGAMALI - 683 572.
- 5. DEPUTY CHIEF ENGINEER**
KERALA STATE ELECTRICITY BOARD
PERUMBAVOOR - 683 542.
- 6. THE CHIEF ELECTRICAL INSPECTOR,**
ELECTRICAL INSPECTORATE, HOUSING BOARD BUILDINGS
SHANTHI NAGAR, THIRUVANANTHAPURAM -695 001.

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**7. THE DEPUTY CHIEF ELECTRICAL INSPECTOR,
ERNAKULAM, KOCHI - 682 016.**

**8. REJIMON P. ALEX,
S/O. P.M. CHANDY, PADICKAPARAMBIL HOUSE
KOOTHATTUKULAM KARA, MUVATTPUZHA - 682 662.**

*** ADDL. R9 IS IMPEADED**

**9. THE ASSISTANT EXECUTIVE ENGINEER
ELECTRICAL SUB DIVISION
KERALA STATE ELECTRICITY BOARD
PIRAVOM - 686 664**

*** ADDL. R9 IS IMPEADED AS PER ORDER DATED 23.09.2014 IN I.A. NO.
12661/2014**

**R1,R2,R6 & R7 BY SR. GOVERNMENT PLEADER SRI S. JAMAL
R3 TO R5 BY SRI.SAJEEVKUMAR K.GOPAL,SC,KSEB
R8 BY ADVS. SRI.HARISANKAR V.MENON
SMT.MEERA V.MENON**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
12-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

DCS

WP(C).No. 28960 of 2013 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE JUDGMENT INCORPORATING THE SETTLEMENT BETWEEN THE PARTIES IN W.P(C) 23384/2009 DATED 29/10/2009.**
- EXHIBIT-P2- TRUE COPY OF THE PROCEEDINGS OF THE DEPUTY CHIEF ELECTRICAL INSPECTOR, ERNAKULAM DATED 05/02/2013.**
- EXHIBIT-P3- TRUE COPY OF THE REPRESENTATION BEFORE THE 6TH RESPONDENT DATED 08/03/2013.**
- EXHIBIT-P3(A)-TRUE COPY OF THE REPRESENTATION BEFORE THE 6TH RESPONDENT DATED 02/05/2013.**
- EXHIBIT-P4- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE DISTRICT COLLECTOR ON 03/05/2013.**
- EXHIBIT-P5- TRUE COPY OF THE JUDGMENT DATED 09/09/2013 IN W.P(C) 12362/2013.**
- EXHIBIT-P6- TRUE COPY OF THE JUDGMENT DATED 19/11/2013 IN W.P(C) NO. 25923/2013.**
- EXHIBIT-P7- TRUE COPY OF THE DETAILED ARGUMENT NOTE BEFORE THE 6TH RESPONDENT DATED 18/10/2013.**
- EXHIBIT-P8- TRUE COPY OF THE ORDER OF THE 6TH RESPONDENT DATED 05/11/2013.**
- EXHIBIT P9- TRUE COPY OF THE APPLICATION DATED 04.03.2012 SUBMITTED BY THE 8TH RESPONDENT BEFORE THE ASSISTANT ENGINEER, ELECTRICAL SECTION, KERALA STATE ELECTRICITY BOARD, KOOHATTUKULAM**
- EXHIBIT P10- COPY OF THE ORDER NO. DB1/2013-14/44 DATED 07.12.2013 OF THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, KERALA STATE ELECTRICITY BOARD, PIRAVOM**
- EXHIBIT P11- COPY OF THE PETITION DATED 23.12.2013 FILED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT**

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**EXHIBIT P12- COPY OF THE ORDER NO. K. DIS 32666/2013/M5 DATED 19.06.2014 OF
THE 2ND RESPONDENT**

**EXHIBITP13- COPY OF THE PROPOSALS SUBMITTED BY THE PETITIONERS ON
19.07.2014 BEFORE THE ASSISTANT EXECUTIVE ENGINEER,
ELECTRICAL SUB DIVISION, KERALA STATE ELECTRICITY
BOARD, PIRAVOM**

**EXHIBITP14 COPY OF THE ORDER NO. DBI/2014-15/ESD/PVM/HEARING 18
DATED 27.11.2014 OF THE 9TH RESPONDENT**

RESPONDENT(S)' EXHIBITS:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

V. CHITAMBARESH, J

W.P.(C). NO. 28960 OF 2013

Dated this the 12th day of January, 2015

JUDGMENT

Ext. P12 order passed in terms of Section 17 of the Indian Telegraph Act, 1885 is impugned. The second respondent by Ext. P12 order remitted the matter to the ninth respondent to re-consider the issue. The ninth respondent has now passed Ext.P14 order about which also the petitioners are aggrieved.

2. The remedy of the petitioners is to move the second respondent again in terms of Section 17 of the Indian Telegraph Act, 1885. The petitioners have a case that the electricity supply line was drawn over their property notwithstanding their objection. The eighth respondent on the other hand asserts that he is also an owner of the property over which the line was drawn.

3. All these are matters to be considered by the second respondent as and when a motion is made in that regard. The second respondent is at liberty to appoint an Advocate Commissioner before whom either parties can file work memos. The Advocate Commissioner can seek the assistance of a technical expert of the Kerala State Electricity Board. The second respondent on the basis of the relevant

inputs shall pass a final order in this regard.

4. The second respondent shall deal with the application in any preferred by the petitioners expeditiously. Every endeavour shall be made to take the proceedings to a logical end within a period of four months.

The writ petition is disposed of.

**V. CHITAMBARESH
JUDGE**

DCS