

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 32779 of 2014 (V)

PETITIONER(S):

NIJU PHILIP THOMAS, AGED 36 YEARS
S/O.THOMAS T.MATHEW, THANNIMOOTTIL HOUSE
CHELLACKADU P.O., RANNI, PATHANAMTHITTA - 689 677.

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:-

1. THE DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA - 689 647.
2. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER
THIRUVALLA - 689 101.
3. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD.
TRANSMISSION DIVISION, KAROOR P.O., PALA,
KOTTAYAM.
4. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD., TC SUB DIVISION
66KV SUB STATION COMPOUND, KANJIRAPPALLY P.O.
KOTTAYAM - 686 507
5. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD LTD., TC SUB DIVISION
KANJIRAPPALLY - 686 507.

R3-R4 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB
R BY GOVERNMENT PLEADER SRI.GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
28-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. TRUE COPY OF NO OBJECTION CERTIFICATE BEARING NO.04.80/12
DATED 30.05.2013 ISSUED BY THE SECRETARY OF RANNI -
PAZHAVANGADI GRAMA PANCHAYAT.

EXHIBIT P1(A). TRUE COPY OF APPROVED PLAN ISSUED BY THE SECRETARY OF
RANNI - PAZHAVANGADI GRAMA PANCHAYAT.

EXHIBIT P2. TRUE COPY OF REPLY ISSUED TO THE PETITIONER UNDER THE RIGHT
TO INFORMATION ACT, 2005.

EXHIBIT P3. TRUE COPY OF ROUGH SKETCH ISSUED TO THE PETITIONER UNDER
THE RIGHT TO INFORMATION ACT, 2005.

EXHIBIT P4. TRUE COPY OF ROUGH SKETCH ISSUED TO THE PETITIONER UNDER
THE RIGHT TO INFORMATION ACT, 2005.

EXHIBIT P5. PHOTOGRAPHS INDICATING THE INSTALLATION OF THE 33 KV
ELECTRIC POSTS JUST IN FRONT OF THE PROPERTY OF THE
PETITIONER.

EXHIBIT P5(A). TRUE COPY OF THE ROUGH SKETCH PREPARED BY PETITIONER
INDICATING THE UNAUTHORIZED DEVIATION CROSSING THE PUBLIC
ROAD.

EXHIBIT P6. TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER
BEFORE RESPONDENT NO.1 ON 13.11.2014.

EXHIBIT P7. TRUE COPY OF THE OBJECTION SUBMITTED BY THE PETITIONER
BEFORE RESPONDENT NO.2 ON 13.11.2014.

EXHIBIT P8. TRUE COPY OF THE REPRESENTATION DATED 24.11.2014 SUBMITTED
BY PETITIONER BEFORE RESPONDENT NO.1. (WITHOUT ANNEXURES)

EXHIBIT P9. TRUE COPY OF TAX RECEIPT DATED 2/5/2014.

EXHIBIT P10. TRUE COPY OF TAX RECEIPT DATED 2/5/2014.

RESPONDENT(S)' EXHIBITS

EXT.R3(a) TRUE COPY OF THE COMMUNICATION SENT BY THE DEPUTY CHIEF
ENGINEER BY HIS COMMUNICATION DATED 21.6.2014 TO THE
EXECUTIVE ENGINEER, TRANSMISSION DIVISION, PALA.

: 2 :

- EXT.R2(b) TRUE COPY OF THE SKETCH OF THE AREA.
- EXT.R2(c) TRUE COPY OF THE REQUEST MADE BY THE PETITIONER BEFORE THE BOARD.
- EXT.R2(d) TRUE COPY OF THE DRAWING PREPARED BY THE CONSULTANT OF THE KSTP (CDM SMITH INDIA PVT. LTD.) FOR UP GRADATION OF PUNALLOOR-MUVATTUPUZHA STATE HIGHWAY AT CHETHOMKARA.
- EXT.R2(e) TRUE COY OF THE DRAWING FOR UPGRADATION OF PUNALLOOR-MUVATTUPUZHA STATE HIGHWAY FROM CHETHOMKARA TO RANNY TOWN (1.3 KM)
- EXT.R2(f) TRUE COPY OF THE DETAILED SITE PLAN WITH THE LATTICE POLE MARKED.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.32779 of 2014

Dated this the 28th day of January, 2015

J U D G M E N T

The change in the alignment of 33 KV electricity line and the consequent erection of an electric post is impugned. The petitioner has in this regard submitted Exts.P7 and P8 representations to respondents 2 and 1 respectively. The petitioner relies on Rule 3(1) of the work of Licensees Rules, 2006 which is extracted hereunder:-

“3. Licensees to carry out works:- (1) A licensee may -

- (a) carry out works, lay down or place any electric supply line or other works in, through, or against, any building, or on, over or under any land whereon, wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed by such licensee, with the prior consent of the owner or occupier of any building or land.
- (b) fix any support of overhead line or any stay or strut required for the purpose of securing in position any support of an overhead line on any building or land or having been so fixed, may alter such support:

Provided that in case where the owner

or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorised by the State government in this behalf, for carrying out the works:

Provided further that if at any time, the owner or occupier of any building or land on which any works have been carried out or any support of an overhead line stay or strut has been fixed shows sufficient cause, the District Magistrate or the Commissioner of Police, or the officer authorised may by order in writing direct for any such works, support, stay or strut to be removed or altered.”(emphasis supplied)

There is admittedly no building in the property even though the petitioner claims to have obtained building permit. The petitioner has no case that the post is being placed over or under his land. The specific case of the petitioner is that the post is kept outside his property along side the road. The conditions in Rule 3 (1) of the Work of Licensees Rules, 2006 are obviously not met and respondents 2 and 3 have no jurisdiction.

2. Added to this is the fact that the petitioner has concededly submitted Ext.P8 representation to shift the post to the side of his property. The petitioner is estopped from raising any objection after the post is shifted and the electric line is about to be energised. It is reported that the drawing of 33 KV electricity line has to be completed within a time frame. Any interdict by respondents 1 and 2 at this juncture would seriously affect the work. The petitioner is free to move the civil court in case he has any grievance as regards his access to the property. I am not inclined to invoke the writ jurisdiction especially after seeing Ext.P5 photograph depicting the location of the post. It is brought out that no stay wire has even been provided to ensure that only a minimum space is occupied by the electric post.

The writ Petition is dismissed.

Sd/-
V.CHITAMBARESH,
Judge.

nj.