

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

WP(C).No. 34438 of 2015 (D)

PETITIONER(S) :

- 1. P.K.SULAIMAN, AGED 62 YEARS,
S/O.AHAMMAD HAJI,RESIDING AT PUNATHINKANDY HOUSE,
C.P.ROAD, P.O.PANNIYANNUR, CHOKLI,
THALASSERY, KANNUR DISTRICT.**
- 2. K.MUMTHAZ, AGED 58 YEARS, W/O.SULAIMAN,
RESIDING AT PUNATHINKANDY HOUSE, C.P.ROAD, P.O.PANNIYANNUR,
CHOKLI, THALASSERY, KANNUR DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.V.VENUGOPAL**

RESPONDENT(S) :

- 1. KERALA STATE ELECTRICITY, BOARD REPRESENTED BY ITS
SECRETARY, VADHYUTHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM-695 004.**
- 2. THE ADDITIONAL DISTRICT MAGISTRATE,
KANNUR - 670 001.**
- 3. THE ASSISTANT EXECUTIVE ENGINEER,
TRANSMISSION SUB DIVISION,
MUNDAYAD P.O., KANNUR - 670 594.**

**R1 BY ADV. SRI.K.M.SATHYANATHA MENON, S.C
R2 & R3 BY GOVERNMENT PLEADER SMT.LILLY.K.T**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C).No. 34438 of 2015 (D)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXT.P1: A TRUE COPY OF THE SALE DEED NO.1558/1985 OF S.R.O.,
 CHOKLI.**

**EXT.P2: A TRUE COPY OF THE PLAINT IN O.S.NO.391/2014 FILED BEFORE
 MUNSIFF COURT, THALASSERY.**

**EXT.P3: A TRUE COPY OF THE ORDER DATED 12/10/2015 VIDE ORDER
 NO.A6-1688/2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C) No.34438 of 2015

Dated this the 21st day of November 2015

JUDGMENT

The petitioner who is stated to be in absolute ownership and possession of the property covered by Ext.P1, is aggrieved by the action of the respondents in taking steps to put up a tower in the petitioner's property for drawing electric lines. In the writ petition he impugns Ext.P3 order of the 2nd respondent which according to him was passed without hearing him.

2. I have heard the learned counsel for the petitioner, the learned Government Pleader for the 2nd respondent as also the learned standing counsel for the 1st and 3rd respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the Bar, I find that in Ext.P3 order, although there is a reference to a notice that was sent to the petitioner, it is a fact that the petitioner was not heard prior to passing Ext.P3 order. Counsel for the petitioner would vehemently state that the address to which the notice was sent is not the address where the petitioner is residing and it was under those

circumstances, that the petitioner did not get the notice that was sent to him. At any rate, I am of the view that inasmuch as this is a matter that affects the property right of the petitioner, it was incumbent upon the 2nd respondent to hear the petitioner also before passing Ext.P3 order. I therefore quash Ext.P3 order and direct the 2nd respondent to pass fresh orders in the matter, after hearing the petitioner and all other interested persons, within a period of three weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

Sd/-
A.K.JAYASANKARAN NAMBIAR
JUDGE

sm/