IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 17TH DAY OF DECEMBER 2020 / 26TH AGRAHAYANA, 1942

WP(C).No.25689 OF 2020(I)

PETITIONER:

1 JIJO GEORGE
AGED 48 YEARS
S/O.GEORGE,KARAKUNNEL HOUSE,
PARATHODU KARA,KONNATHADY VILLAGE,
UDUMBANCHOLA TALUK,IDUKKI-685571.

2 RAJEEV HOUSE,
AGED 47 YEARS
S/O.JOSEPH,THEKKENELLIKUNNEL
HOUSE,KADALIKADU.P.O,MANJALLOOR VILLAGE,
MUVATTUPUZHA-686570.

3 E.A.RAHIM,
AGED 52 YEARS
S/O.ALIYAR,EKKAKARAKUDIYIL HOUSE,MANNANKANDAM
VILLAGE,ADIMALI KARA,DEVIKULAM TALUK,IDUKKI-685561.

BY ADVS.
SRI.GEORGE MATHEW
SHRI.PRAVEEN S.
SRI.M.D.SASIKUMARAN
SHRI.SUNIL KUMAR A.G
SRI.DIPU JAMES
SHRI.MATHEW K.T.
SHRI.GEORGE K.V.

RESPONDENTS:

1 STATE OF KERALA
REPRESENTED BY SECRETARY,
DEPARTMENT OF POWER,GOVERNMENT
SECRETARIAT,THIRUVANANTHAPURAM-695001.

2 THE ADDITIONAL DISTRICT MAGISTRATE,
CIVIL STATION,KUYILIMALA,IDUKKI-685603.

3 KERALA STATE ELECTRICITY BOARD(KSEB)LTD,
REPRESENTED BY ITS CHAIRMAN,VYDYUTHI BHAVAN,
PATTOM,THIRUVANANTHAPURAM-695004.

4 THE CHIEF ENGINEER,

TRANSMISSION,KSEB LTD,VYDYUTHI
BHAVANAM,PATTOM,THIRUVANANTHAPURAM-695004.

5 THE EXECUTIVE ENGINEER,KSEB LTD,
TRANGRID DIVISION,KALOOR,ERNAKULAM,
KOCHI-682017.

6 THE ASST.EXECUTIVE ENGINEER,
KSEB LTD,TRANSGRID T.C,SUB DIVISION,
PALLIVASAL,SUB STATION COMPOUND,
COLLEGE.P.O, KOTHAMANAGALAM-686666.

R3-6 BY ADV. SRI.SUDHEER GANESH KUMAR.R.

SC SUDHEER GANESH KUMAR., PP REKHA C NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 17th day of December 2020

Petitioners challenge Ext.P4. Ext.P4 is an order dated 13.11.2020 issued by the 2nd respondent overruling the objection raised by the petitioners for drawing electric lines through their property. Petitioners have a contention that the line presently sought to be drawn through their property will practically destroy all benefits of their property and the same will render the property unusable. They submit that there is already an existing electric line through their properties and since it is only is an upgradation of electric line, the said line could be taken through the same alignment itself, if required at a higher level even. There is no objection in the line being drawn through the existing alignment, so that minimal damage will be caused. However the proposed alignment causes great damage and destruction to their property. For this purpose, they have raised their objections for drawing of electric line.

2. The learned standing counsel for the KSEB, on the other hand submits that this is a project that is time bound and more than 237 tower foundations and 219 tower erections that have already been completed out of a total of 275 and the

balance work is being carried out in lightening speed so as to complete the entire project by March 2021. He also points out that tower legs in the petitioners' property have already been constructed and he submits that the tower being constructed is an angle tower and there is no other possible alignment to take the electric line. It is in such circumstances, according to the learned standing counsel, that Ext.P4 was passed overruling the objection raised by the petitioner.

3. I have heard Sri. George Mathew, learned counsel appearing for the petitioners and Sri.Sudheer Ganesh Kumar, learned standing counsel for KSEB and Smt. Pooja Surendran, learned Government Pleader.

4. A reading of Ext.P4 shows that none of the factual situations arising in the case has been considered by the 2nd respondent while overruling the obstructions. Ext.P4 cannot be termed as a speaking order since the objections raised by the petitioners have not at all been considered nor answered. The purpose of Section 16B of the Indian Telegraph Act, 1885 does not seem to have been borne in mind by the 2nd respondent while issuing Ext.P4 order. Since Ext.P4 is not a speaking order, I find that the same is not sustainable in law. Accordingly,

Ext.P4 is set aside.

5. Taking note of the urgency of the project that is being carried out, I feel that the matter has to be reconsidered by the 2nd respondent in a time bound manner.

6. Accordingly, there will be a direction to the 2nd respondent to re-consider the objection raised by the petitioners within a minimum period of three weeks from the date of receipt of a copy of this judgment. The petitioners as well as the respondents shall appear before the 2nd respondent on 23.12.2020 and a date of hearing shall be fixed by the 2nd respondent . The 2nd respondent shall pass appropriate orders within two weeks from 23.12.2020 after hearing all parties.

7. Needless to say, respondents 3 to 6 shall not continue drawing of electric line and construction of tower in the petitioners' property till a decision as directed above is taken by the 2nd respondent.

This writ petition is thus allowed.

Sd/-

BECHU KURIAN THOMAS

JUDGE

Nsd
//true copy//
PA to Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF BASIC TAX RECEIPT NO.KL06010507028/2020 DTD.16.11.2020 ISSUED FROM VILLAGE OFFICE MANNAMKANDAM TO PETITIONERS 1 AND 2.**
EXHIBIT P2	**TRUE COPY OF LETTER NO.DBO7/19-20/379 DTD.01.02.2020 ISSUED BY 6TH RESPONDENT TO 3RD PETITIONER.**
EXHIBIT P3	**TRUE COPY OF THE OBJECTION DATED 11.11.2020 FILED BY 3RD PETITIONER BEFORE 2ND RESPONDENT.**
EXHIBIT P4	**TRUE COPY OF ORDER NO.E-8-1807/2020 DTD.13.11.2020 ISSUED BY 2ND RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF ROUGH SKETCH DTD.NIL SHOWING PETITION OF PROPERTIES OF PETITIONERS 1 AND 2.**
EXHIBIT P6	**TRUE COPY OF ROUGH SKETCH DTD.NIL SHOWING POSITION OF PROPERTIES OF PETITIONERS 1 AND 2.**