IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

THURSDAY, THE 25TH DAY OF JANUARY 2024 / 5TH MAGHA, 1945

WP(C) NO. 35865 OF 2023

PETITIONER:

RAJU VARGHESE.K
AGED 58 YEARS, S/O. K.V.VARGHESE,
KONNAKKAL HOUSE, P.O.MANDAPAM
KANNUR DISTRICT, PIN – 671 326.

BY ADVS.
P.VISHNU PRASAD
AMRETHA RANI M.H.

RESPONDENTS:

1 **THE DISTRICT COLLECTOR**
DISTRICT COLLECTORATE, CIVIL STATION,
THAVAKKARA.P.O KANNUR DISTRICT,
PIN – 670 002.

2 **THE ADDITIONAL DISTRICT MAGISTRATE**
COLLECTORATE ROAD, P.O.THAVAKKARA
KANNUR DISTRICT, PIN – 670 002.

3 **KERALA STATE ELECTRICITY BOARD**
REPRESENTED BY ITS SECRETARY VIDYUTHI BHAVAN,
P.O.PATTOM THIRUVANANTHAPURAM DISTRICT,
PIN – 695 004.

4 **THE ASSISTANT EXECUTIVE ENGINEER**
TRANSMISSION SUBDIVISION,
KERALA STATE ELECTRICITY BOARD LTD,
P.O.THALIPARAMBA- KANNUR DISTRICT,
PIN – 670 141.

BY
S.GOPINATHAN, SENIOR GOVERNMENT PLEADER
A.ARUNKUMAR, STANDING COUNSEL, FOR R3

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.01.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 25th day of January, 2024

The petitioner is the owner of a property having an extent of 35 cents comprised in Survey Nos.256/1317 and 256/1318 of Kadannappally Village, Payyannur Taluk. The petitioner purchased the property in the year 2009 and is paying tax under the Tandaper No.2671. The property was purchased by the petitioner in order to build a residential building in the property after raising fund by selling a portion from the total extent of 35 cents.

2. It is submitted that when the petitioner visited the said property in the month of October, 2022, he noticed that many plants in the property were destroyed and many trees were having some markings on it. When he made an enquiry in the locality, he came to know that the 3rd respondent-Kerala State Electricity Board is planning to construct a 110 KV substation in the area and a high voltage line is proposed to be drawn through the middle of the property of the

petitioner. The markings were done by the officials of the 3rd respondent headed by the 4th respondent-Assistant Executive Engineer. The petitioner states that the said encroachment was done without any intimation/notice to the petitioner.

3. The petitioner thereafter submitted Ext.P2 representation to the 1st respondent-District Collector to re-consider the proposed plan and for re-alignment. The 2nd respondent-Additional District Magistrate, through Ext.P4 order, has arbitrarily dismissed Ext.P2 without hearing the petitioner. The same is illegal and is against the principles of natural justice, contends the petitioner. There are other possible ways to avoid drawal of electrical line through the property of the petitioner.

4. Senior Government Pleader entered appearance on behalf of the respondents and resisted the writ petition. The Senior Government Pleader submitted that Ext.P4 order has been passed on 09.08.2023, after making a site visit and after considering the reports of the Assistant Executive

Engineer, Kerala State Electricity Board and the Tahsildar, Payyanur. The application of the petitioner was considered in its entirety. In view of such comprehensive consideration of the issue, a personal hearing was not granted to the petitioner.

5. I have heard the learned Counsel appearing for the petitioner, the learned Senior Government Pleader representing respondents 1 and 2 and the learned Standing Counsel representing respondents 3 and 4.

4. The drawing of line over the petitioner's property will have adverse civil consequences on the petitioner. In that view of the matter, before taking any decision, the petitioner is entitled to an opportunity of personal hearing. Admittedly, personal hearing was not granted to the petitioner. In the facts of the case, I am of the view that the petitioner ought to have been heard by the 2nd respondent-Additional District Magistrate in the matter.

5. In view of the above, the 2nd respondent-Additional District Magistrate is directed to hear the petitioner in the

matter, consider his objection and pass orders afresh after giving an opportunity of hearing to the KSEB also. It shall be done within a period of six weeks. To enable the 2nd petitioner-Additional District Magistrate to pass orders afresh, Ext.P4 order is set aside. Needless to say, while taking a decision, if interest of other citizens are affected, they may also be heard in the matter.

The writ petition is disposed of as above.

Sd/-

N. NAGARESH
JUDGE

AMR

APPENDIX OF WP(C) 35865/2023

PETITIONER'S EXHIBITS

Exhibit P1	**A TRUE COPY OF THE TAX RECEIPT NO.KL13051302770/2022 DATED 28.05.2022 ISSUED FROM THE KADANNAPPALLY VILLAGE OFFICE.**
Exhibit P2	**A TRUE COPY OF THE REPRESENTATION DATED 17.11.2022 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
Exhibit P3	**A TRUE COPY OF THE RECEIPT ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.**
Exhibit P4	**A TRUE COPY OF THE ORDER DATED 09.08.2023 IN FILE NO.DCKNR/12250/2022-A6 PASSED BY ADDITIONAL DISTRICT MAGISTRATE, KANNUR.**