

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 3RD DAY OF JULY 2023 / 12TH ASHADHA, 1945

WP(C) NO. 19344 OF 2023

PETITIONER/S:

SHEMY PAUL, AGED 50 YEARS, S/O K.P. PAUL, KOORPPILLIL HOUSE, KOTHAMANGALAM VILLAGE, KOTHAMANGALAM P.O, ERNAKULAM DISTRICT,, PIN - 686691

BY ADVS.
C.DILIP
R.PRADEEP
ANUSHKA VIJAYAKUMAR

RESPONDENT/S:

- 1 KERALA STATE ELECTRICITY BOARD LTD., VYDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM, REPRESENTED BY ITS CHAIRMAN & MANAGING DIRECTOR, PIN - 695004
- 2 ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN - 686691
- 3 ASSISTANT ENGINEER, KSEB SECTION-2, KOTHAMANGALAM, ERNAKULAM DISTRICT, PIN - 686691
- 4 STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 5 ADDITIONAL DISTRICT MAGISTRATE, CIVIL STATION, KAKKANAD, ERNAKULAM, PIN - 682030

BY ADV ARUNKUMAR A., SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03.07.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The writ petition is filed, inter-alia, to direct the respondents 2 and 3 to consider and dispose of Ext.P5 application submitted by the petitioner, expeditiously.

2. The petitioner's case is that he had purchased a property and building as per Ext.P1 sale deed from three joint-owners. The petitioner's predecessors-in-interest had applied for an electrical connection to the building covered by Ext.P1 sale deed. However, the adjoining land-owners had objected to the drawing of the electrical line. The dispute was resolved by Ext.P2 order passed by the 5th respondent. The adjoining land owners challenged Ext.P2 order before this Court in WP(C) No.11005/2013. The writ petition was dismissed by Ext.P3 judgment and confirmed in writ appeal by Ext.P4 judgment. Subsequently, the petitioner purchased the property and building. But, the respondents 2 and 3 are not granting the electricity connection for the reason that Exts.P2 and P3 judgments are not pronounced in favour of the petitioner. The stand of the respondents 2 and 3 is untenable and unjustifiable.

Hence, the writ petition.

3. Heard; Sri.C.Dilip, the learned Counsel appearing for the petitioner and Sri.Arunkumar A., the learned Counsel appearing for the respondents 1 to 3 and the learned Government Pleader appearing for the respondents 4 and 5.

4. Indisputably, the petitioner has purchased the property and building covered by Ext.P1 sale deed. The petitioner's predecessors-in-interest had applied for an electricity connection to be drawn through the properties of the adjoining land-owners who had objected to the proposal. Nevertheless, by Ext.P2 order, the 5th respondent permitted the petitioner's predecessors-in-interest to draw the electrical line through the objectors' property. Although the adjoining land owners challenged Ext.P2 order before this Court in WP(C) No.11005/2013, a learned Single Judge of this Court, by Ext.P3 judgment, dismissed the writ petition and the said judgment was confirmed by Ext.P4 judgment, by the Division Bench.

5. A reading of Exts.P2 to P4 substantiates that the petitioner's predecessors-in-interest have been granted the right to draw the electrical line through the property of the adjoining land-owners.

6. Going by the recitals in Ext.P1 sale deed, the right to draw the electrical line is also assigned to the petitioner. Thus, the petitioner has stepped into the shoes of his predecessors-in-interest.

7. In the above conspectus, I am of the definite view that Exts.P3 and P4 judgments would enure to the benefit of the petitioner and, therefore, he is entitled to the benefit of Exts.P2 to P4. Consequently, I allow the writ petition.

Resultantly, I order the writ petition as follows:

- (i) The respondents 1 to 3 are directed to grant the petitioner an electricity connection on the strength of Exts.P2 to P4 orders/judgments passed in favour of the petitioner's predecessors-in-interest.
- (ii) The respondents 1 to 3 shall complete the

above exercise in accordance with law and as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a certified copy of this judgment.

Sd/-

**C.S.DIAS
JUDGE**

rkc/03.07.23

APPENDIX OF WP(C) 19344/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE PHOTO COPY OF SALE DEED NO.4632/2021 OF S.R.O, KOTHAMANGALAM DATED 30.11.2021
Exhibit P2	TRUE PHOTO COPY OF ORDER DATED 06.04.2013 ISSUED BY THE 5TH RESPONDENT ALONG WITH THE SKETCH PREPARED BY THE 2ND RESPONDENT
Exhibit P3	TRUE PHOTO COPY OF JUDGMENT DATED 16.07.2013 IN W.P (C) NO 11005 OF 2013
Exhibit P4	TRUE PHOTO COPY OF JUDGMENT DATED 02.06.2015 IN W.A NO 338 OF 2014
Exhibit P5	TRUE PHOTO COPY OF APPLICATION DATED 30.05.2022 SUBMITTED BY THE PETITIONER BEFORE RESPONDENTS 2 & 3