

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 31ST JULY 2008 / 9TH SRAVANA 1930

CRP.No. 414 of 2008()

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OP(ELE) .68/2005 of ADDL.DISTRICT COURT, ALAPPUZHA.

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REVN. PETITIONER: RESPONDENT:

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KERALA STATE ELECTRICITY BOARD,  
REPRESENTED BY THE SECRETARY, KERALA STATE  
ELECTRICITY BOARD, THIRUVANANTHAPURAM.

BY ADV. SRI. ASOK M.CHERIYAN, SC, KSEB

RESPONDENTS: PETITIONER:

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DOMINIC, S/O.VACCKO,  
OOTHUCHIRAYIL, AROOR VILLAGE, CHERTHALA TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 31/07/2008, ALONG WITH CRP.NO.535 OF 2008, THE COURT ON THE  
SAME DAY PASSED THE FOLLOWING:

**M.SASIDHARAN NAMBIAR, J.**

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C.R.P.Nos.414 & 535 of 2008  
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Dated this the 31<sup>st</sup> July, 2008.

**ORDER**

Petitioner in C.R.P.No.535 of 2008 is the claimant-petitioner in O.P.(Ele) No.68 of 2005, on the file of Additional District Court, Alappuzha. Respondent, Kerala State Electricity Board therein, is the petitioner in C.R.P.No.414 of 2008. Both the revision petitions are filed challenging the same award passed by learned Additional District Judge on 4.1.2008.

2. For the trees cut from the property of the petitioner in CRP.No.535/2008, in Survey No.418/9 of Aroor Village for drawing Aroor-Kalamassery 110 KV line, a compensation of Rs.16321/= was awarded. Petitioner received the same under protest. He thereafter filed a petition before District Court under Section 16 of Indian Telegraph Act read with Section 51 of Indian Electricity Act. Petitioner contended that compensation awarded is insufficient and no compensation was awarded for diminution of land value. Respondent contended that just and fair compensation was granted.

3. Learned District Judge relying on **Kumba Amma v. KSEB** (2000 (1) KLT 542) granted an enhanced compensation of Rs.18,000/= for the trees cut, based on Ext.A1 sale deed. Fixing land value at Rs.20,000/= per cent and there is diminution of land value to an extent of 2 cents, Rs.12,000/= was awarded as compensation for diminution of land value. A total compensation of Rs.30,000/= was awarded with interest.

4. Contending that compensation awarded is insufficient, petitioner filed CRP.No.535 of 2008. Contending that compensation awarded is excessive, Board filed CRP.No.414/2008.

5. The learned counsel appearing for the petitioners in both the revision petitions were heard at the admission stage.

6. The learned counsel appearing for the petitioner relying on the judgment of this Court in C.R.P.No.1179 of 1998 argued that court has fixed a land value at the rate of Rs.21,000/= per cent in respect of similar property in Aroor Village, through which electric line

was drawn in 1993, and, therefore, land value assessed by the court is not correct.

7. The learned counsel appearing for the Board pointed out that learned District Judge followed the Full Bench decision of this Court in Kumba Amma's case (*supra*), which was subsequently modified by the Apex Court in **Livisha v. KSEB** (2007 (3) KLT 1) and therefore, the award is to be set aside.

8. As learned District Judge granted enhanced compensation solely based on Kumba Amma's case, in view of the later decision in Livisha's case, the enhancement granted is to be reconsidered. The learned District Judge has fixed the land value without relying on Ext.A1. But according to the petitioner for similar property, this Court has fixed more land value. In such circumstances, the award dated 4.1.2008, in O.P.(Ele) No.68 of 2005 is to be set aside, and the same is to be remanded to District Court for fresh disposal, in accordance with law.

Hence, both the revision petitions are allowed. O.P. (ELE) No.68 of 2005 is set aside and the O.P. remanded to District Court, Alappuzha, for fresh disposal, in accordance with law, in the

light of the observations made earlier. Parties are entitled to adduce further evidence.

**M.SASIDHARAN NAMBIAR,  
JUDGE**

**nj.**