

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 30TH SEPTEMBER 2008 / 8TH ASWINA 1930

WP(C).No. 26652 of 2008(W)

PETITIONER:

MURALEEDHARAN PILLAI,
S/O. VASUDEVAN PILLAI,
NILAVU, ARAMPUNNA, PUNALUR,
KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL
SRI.SAIJU. S

RESPONDENTS:

1. THE DISTRICT COLLECTOR (ADDITIONAL
DISTRICT MAGISTRATE), COLLECTORATE,
KOLLAM.
2. THE KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
VYDHUTHI BHAVAN, PATTOM PALACE
THIRUVANANTHAPURAM.
3. THE ASSISTANT EXECUTIVE ENGINEER,
K.S.E.B, ELECTRICAL SUB SECTION,
PATHANAPRUAM, PUNALUR, KOLLAM DISTRICT.
4. THE ASSISTANT ENGINEER,
K.S.E.B ELECTRICAL SECTION,
VILAKKUDY, PUNALUR, KOLLAM.
5. SRI. THOMAS PETER, KADAVIL VEEDU,
THOLIKODE,
MATHRA, PUNALUR, KOLLAM DISTRICT.

R1 BY GOVERNMENT PLEADER SHRI C.K. GOVINDAN

ADV. SRI.P.P.THAJUDEEN, SC, K.S.E.B FOR R2 TO 4
E5 BY SRI.JOHN VARGHESE, ASST. SOLICITOR OF INDIA.
SRI.P.M.JOSEPH FOR R5

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30/09/2008, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX IN W.P.(C). NO.26652 OF 2008 W

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE TAX RECEIPT IN RESPECT OF THE PETITIONER'S PROPERTY ISSUED FROM THE VILLAGE OFFICER, CHAKKUVARAKKAL VILLAGE.

EXT.P2 TRUE COPY OF THE ADVOCATE NOTICE DATED 19.6.2006 TO RESPONDENTS 1 TO 4.

EXT.P3 TRUE COPY OF THE COMMUNICATION NO.DB-24/C/2006-2007/VKDY/38/3/7-2006 DATED NIL ISSUED BY THE FOURTH RESPONDENT.

EXT.P4 TRUE COPY OF THE COMMUNICATION NO.DB-201/06-07/104 DATED 18.09.2006 ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXHIBITS:

EXT.R5(A) TRUE COPY OF THE SITE PLAN IN WHICH THE ELECTRIC POSTS ARE LAID DATED NIL.

// True Copy //

PS to Judge

K. M. JOSEPH, J.

W.P.C. NO. 26652 OF 2008 W

Dated this the 30th September, 2008

JUDGMENT

Petitioner has approached this Court feeling aggrieved by the attempts to draw the electric line to grant connection to the fifth respondent. According to petitioner, there is a pathway leading from south to north having ten feet width to the property of the petitioner and the right to the said pathway was obtained by the petitioner, and the fifth respondent and the latter constructed a new pathway crossing the existing pathway. Petitioner sent Ext.P2 legal notice, pointing out that the line may not be drawn without the consent of the petitioner. The legal notice is dated 19.6.2006. Ext.P4 dated 18.9.2006 would show that there was a proposal to conduct a hearing in regard to Ext.P2 and the petitioner was asked to attend the hearing on 25.9.2006. It was while so, according to the petitioner, the line came to be partly drawn. According to the standing counsel, 170 metres has been drawn. This Court had passed an order by

which it was ordered that the line should not be charged. The fifth respondent has filed a Counter Affidavit, inter alia, contending that the line is drawn not through the property of the petitioner, but through the property of the fifth respondent.

2. Having regard to the fact that the petitioner is resisting the drawing of the line, it is incumbent upon the Authorities to refer the matter to the Additional District Magistrate, namely the first respondent who should take a decision in the matter in accordance with law under Section 16 of the Indian Telegraph Act. In such circumstances, I feel that the Writ Petition can be disposed of directing the Magistrate to look into the objection of the petitioner. A decision has to be taken at the earliest in view of the urgency expressed by the fifth respondent. Accordingly, the Writ Petition is disposed of with the following directions:

The petitioner, the third respondent and the fifth respondent will appear before the Additional District Magistrate, namely the first respondent at 11 A.M. on 16.10.2008. The Magistrate will consider the matter and take a decision in

accordance with law within a period of one month from 16.10.2008. Till a decision is taken, the line will not be charged.

Sd/=
K. M. JOSEPH, JUDGE

kbk.