

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 31ST DAY OF OCTOBER 2012/9TH KARTHIKA 1934

CRP.No. 507 of 2007

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OPELE.426/2002 of ADDL.DISTRICT COURT,ALAPPUZHA.

REVISION PETITIONER(S)/PETITIONER:  
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RADHA DEVI, AGED 65 YEARS,  
w/o. BHASKARAPILLAI, KOTTAYIL VEEDU, KOIPPALLYKARANMA MURI  
OLAKETTIYAMBALAM P.O., PERINGALA VILLAGE  
MAVELIKKARA.

BY ADV. SRI.J.OM PRAKASH

RESPONDENT/COUNTER PETITIONER:  
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POWER GRID CORPORATION OF INDIA LTD.,  
REPRESENTED BY ITS MANAGER, LOCAL OFFICE AT  
NANGIARKULANGARA, HARIPPAD.

BY ADV. SRI.MILLU DANDAPANI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON  
31-10-2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

kvr/

**K.VINOD CHANDRAN,J**

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**C.R.P.NO. 507 of 2007**  
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**Dated this the 31<sup>st</sup> day of October, 2012**

**ORDER**

The petitioner was a claimant before the Court below, who sought enhanced compensation under Sections 10 and 16 of the Indian Telegraph Act, 1885 read with Section 51 of the Electricity Act, 1910 . The petitioner was the owner in possession of 50 cents of land in Survey Number 165/13 of Peringala Village. Yielding trees in the property were felled for the purpose of drawing 220 KV electricity transmission line over the property. The petitioner aggrieved by the meagre compensation granted, filed a petition before the Court below for enhanced compensation with respect to the value of trees felled and also the diminution in land value. Dissatisfied with the Award passed by the Court below, the petitioner is before this Court claiming enhanced compensation with respect to the value of trees felled in the property. The petitioner also claims compensation for the diminution in land value which was declined by the respondent corporation as also the Court below.

2. With respect to the value of trees cut and removed, the Court below has adopted 5% annuity following a decision of the Full Bench of this Court in ***Kumba Amma v. Kerala State Electricity Board 2000 (1) KLT 542 (F.B)***. The Full Bench decision in ***Kumba Amma's case (supra)*** has been over ruled by the Honourable Supreme Court in ***KSEB v. Livisha 2007 (6) SCC 792***. In ***Livisha***

*(supra)*, the Supreme Court found that the adoption of 5% annuity on a fixed basis is improper, however, it has been held that annuity has to be adopted looking into the facts and circumstances of each case. In the facts and circumstances of the case this Court finds that there cannot be any further enhancement of compensation and adoption of 5% cannot at all be assailed.

3. With respect to the diminution in land value, the prayer was declined for the reason that no Commission was taken out. Admittedly, 26 yielding Coconut trees were cut from the property and safely it can be held that about 6 cents of property would have been adversely affected being the land occupied by the trees. Though there is absolutely no material on record to compute the land value, however, considering the nature of the case as also the pendency of the revision from 2007, this Court finds that a remand at this stage would not serve any purpose. Hence, land value is fixed at Rs.2000/- per cent and the injurious effect is computed at the rate of 30%. There shall be a direction to pay enhanced compensation at the rate of 30%, for 6 cents to the petitioner adopting land value at Rs.2000/- per cent, with interest from the date of felling of trees.

Civil Revision Petition is, partly allowed.

**K.VINOD CHANDRAN**  
**JUDGE**

*LSN*