

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOMAS P.JOSEPH

WEDNESDAY, THE 27TH DAY OF MARCH 2013/6TH CHAITHRA 1935

CRP.No. 396 of 2011 (S)

AGAINST THE ORDER IN OP.142/2007 of DISTRICT COURT,KASARAGOD
DATED 09-03-2011

REVISION PETITIONER/PETITIONER:

SHEKARAN NAIR, AGED 54 YEARS,
S/O.E.NARAYANAN NAIR, GANDHI NAGAR, MULLERIA
KARADKA VILLAGE, KASARAGOD TALUK, POST MULLERIA
KASARGOD DISTRICT.

BY ADV. SRI.S.JIJI

RESPONDENTS:

1. THE ASSISTANT EXECUTIVE ENGINEER,KSEB
KERALA STATE ELECTRICITY BOARD, T.C SUB DIVISION
VIDYANAGAR, KASARAGOD TALUK, POST VIDYANAGAR
KASARGOD DISTRICT.
2. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVAN
THIRUVANANTHAPURAM.

R1-R2 BY ADV. SRI.K.M.SATHYANATHA MENON,SC,KSEB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 27-03-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

VK

THOMAS P. JOSEPH, JUDGE.

C.R.P. No.396 of 2011

Dated this the 27th day of March, 2013.

ORDER

This Civil Revision is in challenge of order dated 09.03.2011 in O.P. (Electricity) No. 142 of 2007 of District Court, Kasaragod. 110 KV line was drawn through the property of the petitioner for which various improvements were cut and removed. Respondents awarded ₹4,520/- by way of compensation for value of improvements. No amount was awarded for (alleged) diminution of land value. Hence, petitioner filed O.P. (Electricity) No. 142 of 2007 claiming enhanced compensation.

2. Petitioner gave evidence as PW1, but did not adduce any other evidence. Respondent proved Ext.B1, copy of detailed valuation statement.

3. Learned District Judge found that petitioner has not adduced any evidence and consequently dismissed the Original Petition.

4. Learned counsel for petitioner has requested for an opportunity to adduce evidence. It is submitted that counsel for petitioner, on account of illness could not appear and argue the Original Petition at the time of hearing. Learned Standing counsel for respondents contend that petitioner has not availed the opportunity he had, to adduce evidence.

5. Learned District Judge refused to grant additional compensation to the petitioner for the reason that no evidence was let in. Though Ext.B1, detailed valuation statement was proved learned District Judge has not considered the annuity factor even.

6. True that, petitioner ought to have adduced evidence regarding extent of land, if any, affected by the drawal of line, land value etc. But, having regard to the facts and circumstances, I am inclined to give petitioner an opportunity to adduce evidence. For that, the case has to go back to the District Court.

Resultantly, the Civil Revision is allowed as under:

1. Order dated 09.03.2011 in O.P. (Electricity) No. 142 of 2007 of the District Court, Kasaragod is set aside.
2. O.P. (Electricity) No. 142 of 2007 is remitted to the court of learned District Judge, Kasaragod for fresh decision after giving both sides opportunity to adduce further evidence.
3. Parties shall appear before learned District Judge, Kasaragod on 22.05.2013.

sd/- THOMAS P. JOSEPH, JUDGE.

