

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

FRIDAY ,THE 30TH DAY OF NOVEMBER 2018 / 9TH AGRAHAYANA, 1940

WP(C).No. 37511 of 2018

PETITIONER/S:

BAJI SOMARAJAN,
AGED 58 YEARS
S/O LATE SOMARAJAN,
THITTAYIL KIZHAKKATHIL,
IRAVIPURAM P.O,
KOLLAM - 691 001,
NOW RESIDING AT V.A GARDEN,
ERAVIPURAM P.O,
KOLLAM DISTRICT.

BY ADVS.
SRI.PRATHEESH.P
KUM.KAVYA SOMAN
SMT.RENY ANTO

RESPONDENT/S:

- 1 KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY,
VYDHYUTHIBHAVAN,
PATTOM PALACE P.O,
THIRUVANANTHAPURAM - 695005
- 2 EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,VYDHUTHI
BHAVAN,PATTOM,THIRUVANANTHAPURAM-695 001.
- 3 THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,MAJOR
SECTION,PALLIMUKKU,KOLLAM-690008.
- 4 THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,ELECTRICAL SECTION,
PALLIMUKKU, KOLLAM-690008

*ADDL R5 ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE, KOLLAM
(*ADDL R5 IS IMPEADED AS PER ORDER DATED 30.11.2018)
BY ADVS
SRI.ARUNKUMAR.A-SC
SMT. AMMINIKUTTY - SR GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.11.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner assails Ext.P5 order of the Additional District Magistrate, the additional 5th respondent herein, as also Exts.P6 and P6(a) demand notices issued by the Officers of the Kerala State Electricity Board (KSEB for short), on the ground that his application for shifting of the transformer from his property has not been properly considered by the Authority, while issuing Ext.P5 order.

2. The petitioner says that the Transformer in question was earlier installed in his property for the purpose of an industry that was being run by his father and that the industry is now closed thus compelling him to now sell the property. He says that the presence of the transformer in the property denudes its value and therefore, that he made Ext.P2 application before the KSEB to shift the transformer to a place outside his property which is a Government 'purambokku' land. He

alleges that this request was never considered by the Authority while issuing Ext.P5.

3. I have examined Ext.P5 order which merely says that the request of the petitioner cannot be considered. The order does not say why it cannot be considered nor does it specify as to why the transformer cannot be shifted to a place outside the petitioner's property and into the Government 'purambokku' land, which the petitioner says is even now available. Coming to Exts.P6 and P6(a), they are only demand notices made to the petitioner for the purpose of shifting of the transformer, consequent to the directions in Ext.P5 into another place in the petitioner's property itself. However, since Ext.P5 does not say as to why the petitioner's request, to have the transformer shifted to the available "purambokku" land, cannot be acceded to, I do not think that the KSEB can now make this demand or shift the transformer in the manner stated in

Ext.P5.

In the afore circumstances, I quash Ext.P5 as also Exts.P6 and P6(a) and direct the additional 5th respondent herein, to consider the application of the petitioner, namely Ext.P2, which had been referred to him by the KSEB, afresh, after affording an opportunity of being heard to the petitioner as also the competent Authority of the KSEB and decide as to why the transformer cannot be shifted to the 'purambokku' area stated to be available by the petitioner, in terms of law.

The exercise as ordered herein shall be completed by the 5th respondent as expeditiously as possible but not later than two months from the date of receipt of a copy of this judgment.

This writ petition is thus ordered.

SD/-

DEVAN RAMACHANDRAN

JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	THE COPY OF JUDGMENT PASSED BY THE HON'BLE HIGH COURT OF KERALA IN WPC 26561/2015 DATED 1.6.2017
EXHIBIT P2	THE COPY OF REPRESENTATION HELD BY THE PETITIONER PURSUANT TO EXHIBIT P1 DATED 6.7.2017
EXHIBIT P3	THE COPY OF THE JUDGMENT IN CON.CASE(C) 788/2018 IN WPC NO 26561/2015 OF THE HON'BLE HIGH COURT OF KERALA.
EXHIBIT P4	THE COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.
EXHIBIT P5	THE COPY OF APPROVAL GIVEN BY THE DISTRICT COLLECTOR DATED 12.6.2018 FOR SHIFTING THE TRANSFORMER ALONG WITH APPROVED PLAN.
EXHIBIT P6	THE COPY OF DEMAND NOTICE ISSUED FORM THE JOINT REGISTRAR TO THE PETITIONER IN 488/2018 AND 489/2018
EXHIBIT P6 A	THE COPY OF DEMAND NOTICE ISSUED FORM THE JOINT REGISTRAR TO THE PETITIONER IN 489/2018

RESPONDENTS' EXHIBITS: NIL

// TRUE COPY //

PA TO JUDGE

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