

Joseph vs Chairman

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Court : Kerala

Decided On : Feb-23-2024

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : CRP/114/2015

Appellant : Joseph

Respondent : Chairman

Judgement :

CRP No.114 of 2015 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN FRIDAY, THE 23RD DAY OF FEBRUARY 2024 / 4TH PHALGUNA, 1945 CRP NO. 114 OF 2015 AGAINST THE ORDER/JUDGMENT OP 107/2006 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT - II, KALPETTA REVISION PETITIONER/PETITIONER: 1 JOSEPH, S/O. DEVASSIA (DIED)MYLOTH (II), PULPALLY AMSOM DESOM, SUPPLEMENTARY PETITIONERS/PETITIONERS:- 2 THRESIYAMMA, W/O. JOSEPH, MYLOTH (H), PULPALLY AMSOM DESOM, SULTHAN BATHERY TALUK 3 VIPIN, 4 VIKAS, 5 VINI, BY ADV SRI.P.K.ABOOBACKER(EDAPPALLY)

RESPONDENTS/RESPONDENTS: 1 CHAIRMAN,KERALA STATE
ELECTRICITY BOARD PATTAM, THIRUVANANTHAPURAM 2 ASST.
EXECUTIVE ENGINEER KSEB MASTER PLAN SUB EIVISIO,
PUTHIYARA, KOZHIKODE 4 BY ADVS. SRI.K.M.SATHYANATHA
MENON,SC,KSEB R.HARISHANKAR

CRP No.114 of 2015 2 OTHER PRESENT: SC FOR KSEB A.ARUNKUMAR THIS
CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON
23.02.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
CRP No.114 of 2015 3 V.G.ARUN J. ----- C.R.P. No.114
of 2015 ----- Dated this the 23rd day of February 2024

ORDER

The petitioner is dissatisfied with the quantum of compensation awarded towards the damages sustained due to the drawing of 33 KV electric line across his property admeasuring 5 cents. Even though the petitioner claimed Rs.4,05,320/- towards diminution in land value as well as the compensation for the value of trees cut, the court below awarded only Rs.10,000/- towards diminution in land value and declined the claim for compensation towards value of the trees cut.

2. Learned Counsel for the petitioner submitted that entire 5

cents was rendered useless by drawing of the lines and amount granted towards the diminution in land value is negligible, when compared to the actual loss. It is pointed out that the Advocate Commissioner had filed a report suggesting that, the value of land would be around Rs.15,000/- per cent approximately. Instead of taking these factors into consideration, the court below unilaterally fixed the diminution at Rs.10,000/-. It is hence contended that the impugned order ought to be set aside and the matter remanded for

CRP No.114 of 2015 4 fresh consideration.

3. Learned Standing Counsel for the KSEB submitted that the Court below had rightly fixed the compensation at Rs.10,000/- in the absence of any evidence either oral or documentary.

4. Despite the earnest efforts made by the learned Counsel for the petitioner, I find no reason to interfere with the impugned

order since no evidence was let in on behalf of the petitioner except

the commissioner's report. No document showing the value of comparable land was produced nor was any witness examined in support of the claim raised by the petitioner. Although learned Counsel for the petitioner submitted that the petitioner had died by the time the case was listed for trial, the legal heirs having continued the proceedings, one of them or any other independent witness should have been examined to substantiate the claim. In the absence of either oral or documentary evidence, the court below had fixed the compensation payable towards diminution in land value on its own, which I find to be just and reasonable. For the aforementioned reasons, the Civil Revision Petition is dismissed. Sd/- V.G.ARUN Judge

dpk

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