

Narayanji vs Additional District Magistrate

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Court : Kerala

Decided On : Oct-28-2021

Judge : Honourable Mr.Justice S.V.Bhatti,Honourable Mr.Justice Basant Balaji

Appeal No. : WA/310/2021

Appellant : Narayanji

Respondent : Additional District Magistrate

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE S.V.BHATTI & THE HONOURABLE MR.JUSTICE BASANT BALAJI THURSDAY, THE 28TH DAY OF OCTOBER 2021 / 6TH KARTHIKA, 1943 WP(C) 10053/2018 OF HIGH COURT OF KERALA APPELLANT/S: NARAYANJI, AGED 78 YEARS, S/O. KRISHNAN NAMBOOTHIRI, GOPANANDAN, CMC-2, CHERTHALA. BY ADV B.PRAMOD RESPONDENT/S: 1 ADDITIONAL DISTRICT MAGISTRATE ALAPPUZHA, PIN - 688524. 2 THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, K.S.E.B, CHERTHALA, PIN - 688534. 3 REJITHA MOL, W/O. KAVIRAJ, KAVITHALAYAM, VARANAD P.O, CHERTHALA, ALAPPUZHA, PIN - 688534. 4 V.K. RAVEENDRAN VERINGOTTHATHIL, CMC

28,CHERTHALA, PIN - 688534. BY ADV A.ARUNKUMAR OTHER PRESENT: APPELLANT Adv. Namitha Jyothish., SC. for KSEB., A.Arunkumar., GP., Arun Ajay Shankar THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 28.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

JUDGMENT

(28th day of October 2021) Basant Balaji J., This Writ Appeal is filed against the judgment dated 23.9.2020 in W.P.(C) No.10053 of 2018 by the petitioner therein, challenging Ext.P7 order of the first respondent dated 23.3.2018, whereby the first respondent has given permission to the 2nd respondent to draw electric line to the house of the third respondent in tune with the proposal using weather proof line.

2. The petitioner is aged 78 years and she resides in a

small residence consisting of two rooms, situated in three cents of land which she obtained from the State Government under the Land Assignment Rules. The third respondent is the owner of the property situated on the northern side of the petitioner's property. For constructing a building in the property of the third respondent, she

-3-

sought electricity connection by drawing electric line over the petitioner's property. The petitioner objected to the said proposal and the 2nd respondent moved the first respondent seeking permission to draw the line as per the proposal made by the 2nd respondent. The first respondent issued notice to the petitioner as well as the third respondent and the 2nd respondent. On 28.2.2018, the petitioner as well as the third respondent, along with the Assistant Executive Engineer were heard and the first respondent passed Ext.P7

order dated 13.3.2018 accepting the proposal of the 2 nd

respondent to draw electric line through the property of the petitioner using weather proof line. The petitioner challenged the said order in the Writ Petition.

3. The learned Single Judge dismissed the said Writ

Petition holding that on a perusal of Ext.P7 order, the objections raised by the petitioner were considered and the petitioner was also granted an opportunity of hearing. The learned Single Judge found Ext.P7 order is not vitiated by -4- any non-compliance of the rules of natural justice or account of any malafide. Therefore, no interference was called for with Ext.P7 and the Writ Petition was dismissed accordingly.

4. The appellant filed this Writ Appeal challenging the

judgment of the learned Single Judge for the reason that

while granting permission for drawal of the electric line, it has to be ensured that such drawal causes minimum inconvenience to the least number of people, as reported in Abdul Sukkur P H v. Additional District Magistrate and others [2012(2) KHC 241] and that the learned Single Judge ought to have considered that the appellant's residence consists of only two tiny rooms and if she wants to construct an additional room on the western side, the present proposed line will be a hindrance for such construction.

5. On 11.2.2021, this Court adjourned the case by three weeks and directed the standing counsel appearing for -5- the Kerala State Electricity Board to produce the report from the 2nd respondent regarding the feasibility of shifting of electric post.

6. Today, the standing counsel for the 2 nd respondent,

the Kerala State Electricity Board has produced a report and sketch for shifting the electric post to the western side of the property of the appellant so that the inconvenience caused to her is minimised. According to the 2 nd respondent, as shown in the rough sketch, the electric pole which is now at 'A' pole can be shifted to 'A 1' pole and the line can be drawn from 'AB' to 'A 1B' to the western side of the appellant's property. The counsel for the appellant submits that she is ready to deposit the amount tentatively estimated by the 2nd respondent Electricity Board for carrying out the work. In the result, this Writ Appeal is disposed of, accepting

the report submitted by the 2nd respondent and the 2nd respondent is directed to complete the work of shifting the -6- electric post from 'A' to 'A 1', as expeditiously as possible, preferably within a period of six weeks from the date of receipt of the amount by the appellant. sd/- S.V.BHATTI JUDGE sd/- BASANT BALAJI, JUDGE dl/

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