

**HIGH COURT OF KERALA**

**BENCH : THE HONOURABLE MR. JUSTICE V.G.ARUN**

**Date of Decision: April 25, 2024**

CRP NO. 407 OF 2021 & CRP NO. 159 OF 2022

**M.P. BALAKRISHNAN ...REVISION PETITIONER**

**VERSUS**

**POWER GRID CORPORATION OF INDIA**

**THE SPECIAL TAHSILDAR (L.A.)**

**STATE OF KERALA**

**KERALA STATE ELECTRICITY BOARD ...RESPONDENT(S)**

**Legislation:**

Code of Civil Procedure, 1908, Section 115

Electricity Act, 2003

**Subject:** Revision petitions challenging compensation awarded for damages due to the installation of 400 KV lines by Power Grid Corporation of India Ltd., affecting land value and vegetation.

**Headnotes:**

Compensation for Land Devaluation and Tree Cutting – Civil Revision Petitions – Findings on Enhanced Compensation – Held – Compensation for tree loss unsupported by evidence, but diminished land value compensation upheld based on factors such as land situs, extent of high voltage lines, and commercial value of the area. [Paras 1-8]

Evidence and Assessment – Review – Analysis of the lower court’s reliance on Advocate Commissioner’s reports and documentary evidence – Held – Court below correctly rejected enhanced compensation for tree loss due to insufficient evidence, but appropriately assessed and enhanced compensation for diminished land value. [Paras 4-7]

Legal Principles on Compensation – Application – Evaluation of factors affecting land value under high voltage electricity lines – Held – Following principles from KSEB v. Livisha, compensation was reasonably fixed at 40% for central corridor and 20% for outer corridors, considering the specific circumstances of the land. [Para 8]

Judicial Discretion on Compensation – Standard – Court’s role in determining compensation contrary to government guidelines – Held – Court not bound by government-set land values, appropriate to adjust compensation based on actual damage and land characteristics. [Para 9]

Interest on Compensation – Legal Validity – Court’s decision to grant 9% interest – Held – Grant of interest deemed lawful, aligning with precedents. [Para 9]

Decision – Dismissal of Civil Revision Petitions – Both claimant’s and Corporation’s petitions dismissed, compensation as enhanced by the lower court upheld, to be paid within three months. [Para 12]

#### **Referred Cases:**

- KSEB v. Livisha [(2007) 6 SCC 792] – Reference for assessing impact of high voltage lines on property value and utility [Para 8].
- V.V. Jayaram v. Kerala State Electricity Board [2015 (3) KHC 453] – Cited for principles on awarding interest on compensation [Para 9].

**Representing Advocates:****Adv P.T. Jose for M.P. Balakrishnan****Adv Millu Dandapani for Power Grid Corporation****Adv R. Harishankar for Kerala State Electricity Board****Advocates Riji Rajendran, A. Arunkumar, Sr. GP. V. Tekchand, Praveen K. Joy also present.****ORDER**

Dated this the 25<sup>th</sup> day of April, 2024

These revision petitions are filed challenging the order passed by the Additional District Judge-VI, Ernakulam in O.P.(Electricity) No.561 of 2013. The original petition was filed by the revision petitioner in CRP No.407 of 2021 (hereinafter called 'the claimant'), being dissatisfied with the compensation awarded towards the damage and loss sustained due to the drawing of 400 KV lines across his property by the Power Grid Corporation of India Ltd (hereinafter called 'the Corporation'). The essential facts are as under;

The claimant is in ownership and possession of landed property having an extent of 35.75 Ares comprised in Sy.Nos.198/5-1 and 198/4-1 of Karukutty Village in Aluva Taluk. The land was cultivated with various yielding and non-yielding trees. According to the claimant, to facilitate drawing of the lines and smooth transmission of power, large number of trees were cut from his property. The drawing of high tension lines rendered the land underneath and adjacent to the lines useless, resulting in diminution of the value of the property. In spite of the huge loss suffered by the claimant, only an amount of Rs.1,80,565/- was paid as compensation towards the value of yielding and non-yielding trees cut. Surprisingly, no compensation was granted for diminution in land value. Hence, the original petition was filed, seeking enhanced compensation towards the value of trees cut and diminution in land value.

2. The court below rejected the claim for enhanced compensation for the value of trees cut since no evidence in support of the claim was produced. As far as the claim for enhanced compensation towards diminution in land value is concerned, the court below relied on Ext.A5 document as well as Exts.C2 and C2(a) commission report and sketch. The Advocate Commissioner reported that the claimant's property is situated at a distance of 125 metres from KarukuttyPalissery road, which is a bus route. The court below also took note of the fact that the petition schedule property abuts a canal road on the southern boundary. Based on the said factors, the court below fixed the land value of the claimant's property at Rs.1,80,063/- per cent, which is equivalent to 20% less than the land value of the property involved in Ext.A5 document. Relying on Ext.C2(a) sketch, the extent of central corridor was held to be 25.400 cents and that of the outer corridors, 31.575 cents (15.245 + 16.330). For the central corridor, 40% of the land value was granted as compensation and for outer corridors, 20% of the land value. Accordingly, the claimant was found entitled to compensation of Rs.29,66,537/-. Dissatisfied with the quantum of enhancement, the claimant has filed CRP No.407 of 2021, whereas the Corporation has filed CRP No.159 of 2022 contending that the enhancement ordered is far in excess of the actual damage sustained.

3. Heard Adv.P.T.Jose for the claimant and Adv.Millu Dandapani for the Corporation.

4. Learned Counsel for the claimant contended that the court below committed gross illegality in refusing to grant enhanced compensation for the loss sustained due to the cutting of valuable trees, in spite of the Advocate Commissioner assessing and reporting the loss. The findings in the Commissioner's report were not relied on by the court below for the reason that the property was inspected much after the trees were cut. The said reasoning is flawed since the trees were cut much after issuance of notification by the Corporation and the cause of action for filing the original petition arose only on payment of the initial compensation, even later. It is submitted that the claimant's property is situated at a distance of 125 metres from the Karukutty-Palissery road, which is a bus route and also abuts the canal road on the southern boundary. Without considering these crucial factors, the land value was fixed as Rs.1,80,063/- per cent.

5. It is further submitted that the court below grossly erred in granting only 40% of the land value for the central corridor and only 20% for outer corridors. Considering the extent of damage sustained and the

diminution in land value consequent to the drawing of lines, the court below ought to have granted compensation as claimed.

6. Learned Counsel for the Corporation contended that, compensation towards diminution in land value granted is exorbitant and there is no rationale in granting 9% interest on that amount. The court below also erred in relying on Ext.A5 for fixing the land value of the claimant's property. As the drawing of electric lines does not prohibit the landowner from conducting agricultural activities and putting up small structures, 40% of land value granted for central corridor and 20% for the outer corridors are exorbitant.

7. A careful scrutiny of the impugned order reveals that the claim for enhancement of compensation towards the value of trees cut was rightly rejected since no supporting material, other than the findings in the Advocate Commissioner's report, was made available. As found by the court below, apart from the interested testimony of a witness, who is the claimant in some of the connected cases, no other independent witnesses were examined. It is also not in dispute that trees were cut and removed in the year 2011 and the Commissioner inspected the property in the year 2015 and assessed the value of trees on the basis of an overview of the trees standing in the nearby properties. Such assessment, having no scientific basis, is not sufficient to discard the contemporaneous valuation statement prepared by the Corporation.

8. As far as the diminution in land value is concerned, the factors to be taken into consideration, as laid down in **KSEB v. Livisha[(2007) 6 SCC 792]** are as under;

*“10. The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small tract of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used.”*

On careful scrutiny of the impugned order, it is seen that the compensation was enhanced after taking all the above factors into consideration. The nature of the land, the commercial importance of the area and the manner in which

the land was affected by drawing of the lines are all seen considered for fixing the land value as well as the percentage of diminution. Based on the above factors and a comparison of the petition schedule property with the property involved in Ext.A5, the court below has fixed the land value at Rs.1,80,063/- per cent, viz, 20% less than the value shown in Ext.A5 document, which according to me, is reasonable. Similarly, discretion was properly exercised by the court below in granting 40% of the land value as compensation for the central corridor and 20% for the outer corridors.

9. The contention of the Corporation that the Government having fixed the fair value, the court below could not have fixed a higher value is liable to be rejected since, while assessing the damage sustained and fixing the compensation, the court is not bound by the guidelines/orders issued by the Government. The contention that the court below committed an illegality in awarding 9% interest cannot also be sustained in the light of the decision of this Court in **V.V. Jayaram v Kerala State Electricity Board [2015 (3) KHC 453]**. As such, there is no illegality or material irregularity in the impugned order, warranting intervention by this Court in exercise of the revisional power under Section 115 of the Code of Civil Procedure.

For the aforementioned reasons, the civil revision petitions filed by the claimant as well as the Corporation are dismissed. The enhanced compensation fixed by the court below shall be paid within three months of receipt of a copy of this order. If any amount is deposited pursuant to the order of this Court or otherwise, the same shall forthwith be released to the claimant on his filing appropriate application.

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