

**HIGH COURT OF KERALA**

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

**Date of Decision: 28<sup>th</sup> May 2024**

CIVIL REVISION PETITION NO. 157 OF 2018

AGAINST THE ORDER/JUDGMENT DATED 28.06.2017 IN OPELE NO. 384 OF 2013 OF II ADDITIONAL DISTRICT COURT, THIRUVANANTHAPURAM

**POWER GRID CORPORATION OF INDIA LTD. ...REVISION  
PETITIONER(S)**

**VERSUS**

**DEVAKI AMMA and Others ...RESPONDENT(S)**

**Legislation:**

Sections 51 and 67 of the Indian Electricity Act, 1910

Section 115 of the Code of Civil Procedure, 1908

**Subject:** Civil revision petition challenging the enhanced compensation ordered for the loss of land value and trees due to the drawing of 400 KV electric lines across the respondent's property.

**Headnotes:**

Civil Procedure – Compensation for Land and Trees – Revision petition by Power Grid Corporation against the order of the District Court awarding enhanced compensation for trees cut and diminution in land value due to the drawing of high tension electric lines – Respondent's property affected significantly, with trees cut and land rendered less valuable – District Court awarded compensation based on oral evidence, documents, and site-specific factors – High Court upheld the compensation, dismissing the revision petition for lack of illegality or material irregularity in the impugned order. [Paras 1-6]

Land Valuation – Assessment of Diminution – Analysis – Held – District Court's valuation of land and trees justified based on evidence and site-specific considerations – Compensation for trees and diminution in land value appropriately calculated – Court's discretion exercised correctly in awarding 30% land value for affected area and 100% for the tower footing area. [Para 2-3]

Judicial Discretion – Interest on Compensation – Argument by petitioner regarding improper awarding of interest dismissed – High Court noted that

the District Court's decision to award 9% interest per annum was within its discretion and in line with legal precedents. [Para 5-6]

Decision – Civil Revision Petition Dismissed – High Court found no grounds to interfere with the District Court's order under Section 115 CPC – Compensation order for the respondent upheld in full. [Para 6]

**Referred Cases:**

- KSEB v. Livisha (2007) 6 SCC 792
- KSEB v. Maranchi Matha [2008 (1) KLT 1038]

**Representing Advocates:**

**E.M. Murugan for the petitioner**

**Govind Padmanabhan for the respondent**

**ORDER**

Dated this the 28<sup>th</sup> day of May, 2024

The revision petitioner, Power Grid Corporation of India Ltd ('the Corporation' for short), is aggrieved by the enhanced compensation ordered to be paid to the respondent, consequent upon the drawing of 400 KV electric lines across her property by the Corporation. The essential facts are as under;

According to the respondent, she is in ownership and possession of landed property having an extent of 65 cents in Nellanaduu Village. The land was cultivated with various yielding and non-yielding trees. In order to facilitate drawing of lines for the smooth transmission of power, large number of trees were cut from the respondent's 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, only meagre amount was paid to the respondent as compensation for the loss thus sustained. Hence, the original petition was filed, seeking enhanced compensation towards the value of trees cut and diminution of land value.

2. A perusal of the impugned order shows that the court below has assessed the loss sustained due to cutting of yielding trees based on the oral evidence of the respondent and the documents on record. Finding the valuation made by the respondent to be reasonable, the compensation was computed in the following manner.

|                                      | N<br>o.<br>of<br>tr<br>e<br>e<br>s | An<br>nua<br>l<br>yiel<br>din<br>g<br>Kg/<br>unit | Pri<br>ce<br>per<br>Kg/<br>uni<br>t | Mult<br>i<br>plier | Tota<br>l    | Lab<br>our<br>cha<br>rge | Net<br>Rs.   |
|--------------------------------------|------------------------------------|---|-------------------------------------|--------------------|--------------|--------------------------|--------------|
| Coc<br>onut                          | 8                                  | 240   | 4.0<br>7                            | 8                  | 625<br>15.2  | 625<br>1.5<br>2          | 5626<br>3.68 |
| Arec<br>anut                         | 6                                  | 400   | 0.4<br>7                            | 8                  | 902<br>4     | 902<br>.4                | 8121<br>.6   |
| Rub<br>ber                           | 5<br>0                             | 6   | 54                                  | 8                  | 1,29<br>,600 | 12,<br>960               | 1,16,<br>640 |
| Total                                |                                    |   |                                     |                    |              |                          | 1,81,<br>024 |
| Amount already given for these items |                                    |   |                                     |                    |              |                          | 45,5<br>30   |
| Amount to be awarded                 |                                    |   |                                     |                    |              |                          | 1,35,<br>494 |

Being so, this Court finds the procedure adopted by the court below to be just and proper.

3. A perusal of the impugned order shows that, for the purpose of fixing the compensation towards diminution in land value, the court below relied on Exts.C1 and C1(a) commission report and plan as well as the Mahazar. Although the respondent had relied on Ext.A10 sale deed, the court below refused to accept the property involved in the said document as comparable land, since the property involved in Ext.A10 document is lying adjacent to the M.C.Road, while the petition schedule property is adjacent to a 3 metre wide road. It was also found that the transaction by way of Ext.A10 document was in the year 2014, whereas the cause of action with respect to the petition schedule property had arisen in the year 2003. Based on the above factors and on consideration of the commercial value as well as the lie and nature of petition schedule property, the land value was fixed at Rs.30,000/- per cent and 30% of the land value thus fixed was granted as

compensation for the affected area admeasuring 14.75 cents. For an extent of 9.5 cents covered by the tower, 100% of the land value was awarded. Accordingly, the respondent was found entitled to compensation of Rs.4,48,462/- with interest at the rate of 9% per annum.

4. Heard Adv.E.M.Murugan for the Corporation and Adv.Govind Padmanabhan for the respondent.

5. On careful scrutiny of the impugned order, it is seen that the compensation due towards diminution in land value was fixed based on factors like situs of the land, the extent to which the land is adversely affected and consequent diminution in the value of the land, as laid down by the Apex Court in **KSEB v. Livisha [(2007) 6 SCC 792]**. Similarly, the discretion vested with the court was properly exercised by awarding 30% of the land value as compensation for the land affected due to the drawing of electric lines and 100% for the tower footing area.

6. The contention of the Corporation that the Government having issued guidelines for fixation of the land value, the court below ought to have fixed the value in accordance with the same is liable to be rejected, since the court is not bound by the guidelines/orders issued by the Government while fixing the compensation. In view of the decision of this Court in **KSEB v Maranchi**

**Matha [2008 (1) KLT 1038]**, the contention that the court below has transgressed its jurisdiction, by granting interest from the date of cutting of trees, is liable to be rejected. The argument that an illegality was committed by awarding interest at the rate of 9% per annum being without merit, cannot also be sustained. As such, there is no illegality or material irregularity in the impugned order, warranting CRP No.157 of 2018 -7- this Court's interference in exercise of the revisional power under Section 115 of the Code of Civil Procedure.

For the aforementioned reasons, the civil revision petition is dismissed.

\*Disclaimer: Always compare with the original copy of judgment from the official website.