

(2026) 01 KL CK 1715

In the High Court Of Kerala

Case No : Writ Petition (C) No.17587 Of 2025

Gopalakrishnan.K

APPELLANT

Vs

Additional District Magistrate

RESPONDENT

Date of Decision : 30-01-2026

Acts Referred:

Constitution of India, 1950 — Article 226
Electricity Act, 2003 — Section 164, 185(2)(a)
Indian Telegraph Act, 1885 — Section 16(1), 17

Citation : (2026) 01 KL CK 1715

Hon'ble Judges : Mohammed Nias C.P., J

Bench : Single Bench

Advocate : Pushparajan Kodoth, K.Jayesh Mohankumar, Vandana Menon, Vimal Vijay, P.S.Appu, Ajit Joy

Final Decision : Dismissed

Judgement

Mohammed Nias C.P., J

1. The petitioner challenges the order dated 28.04.2025 issued by the 1st respondent directing the drawing of a 110 KV line through the middle of the petitioner's property. The petitioner is the son of the person in possession of 4.62 acres of land, which contains arecanut, coconut, and other plantations.

2. The 2nd respondent issued Ext. P1 notice to the petitioner's late brother under Section 164 read with Section 185(2)(a) of the Electricity Act, 2003, and the Indian Telegraph Act, 1885. It is stated in the notice that the buildings and standing trees situated in R.S. Nos. 143 and 148 of Kolathur Village would be removed for the construction of the 110 KV DC line to Kuttikkole Sub-station within seven days from the date of the notice. It is further stated that the extent of compensation for the damage would be assessed and paid through the officers of the Board. Along with the notice, Ext. P2, a list of particulars of the trees and crops proposed to be cut and removed from the property, was attached. The petitioner's brother submitted Ext. P3 objection to the 1st respondent under

Section 17 of the Indian Telegraph Act, along with a sketch showing an alternative route for drawing the 110 KV line. If the proposed route is adopted, the property would be divided into two and rendered practically useless, and no residential building could be constructed. On the other hand, the alternative route would not cause any damage to the petitioner's property, would not involve any additional financial commitment to the 2nd respondent, and there are no crops or residential houses along the suggested route.

3. Since no action was taken on the objection submitted, the petitioner's brother filed W.P.(C) No. 38273 of 2004 before this Hon'ble Court. By Ext. P6 judgment dated 05.11.2024, this Court directed the 1st respondent to dispose of Ext. P3 objection. Pursuant thereto, a site inspection was conducted on 21.02.2025, during which the alternative route suggested by the petitioner was pointed out. Thereafter, the 2nd respondent issued a notice for a hearing on 19.03.2025 to the petitioner's brother. The hearing was conducted, and written objections along with a sketch of the alternative route were filed, which are produced as Exts. P9 and P10.

4. Subsequently, Ext. P11 order dated 28.04.2025 was issued by the 1st respondent, wherein, based solely on the report of the 2nd respondent, the alternative route suggested by the petitioner was rejected, and a direction was issued to draw the 110 KV line through the middle of the petitioner's property.

5. The petitioner submits that no consent has been obtained from the petitioner for drawing the 110 KV line through the petitioner's property. Further, the 1st respondent has not considered the objections and the suggestion of the alternative route submitted by the petitioner, which is evident from Ext. P11 order, as it contains no reference to the same and has been passed solely based on the report submitted by the 2nd respondent. It is therefore contended that Ext. P11 is illegal, arbitrary, and liable to be quashed.

6. In the statement filed by the 2nd respondent, KSEBL, it is submitted that no tower is being erected in the petitioner's 4.62-acre property, and that only an HT line passes over the property at a considerable height, as the towers are located on hilltops. It is further stated that the old house within the premises need not be demolished. To refute the claim of dependency on the property for family income, it is stated that the petitioner is a Government servant.

7. It is submitted that a notice intimating trees to be cut was served on the petitioner and that, according to the survey, the most suitable route was selected so that the line does not pass over existing buildings and causes the least inconvenience. The route was selected based on a detailed survey and extensive study, conducted through the walk-over survey method and using advanced tools to minimise damage and inconvenience and to avoid crossing existing buildings. It is further stated that the damage to trees would be considerably lower, as the proposed line passes from hill to hill, and therefore, trees with sufficient clearance from the line need not be cut. The same was explained to the

petitioner during the ADM's site inspection.

8. It is contended that, in Route No. 1 suggested by the petitioner, although the loss to the petitioner would be minimal, several buildings belonging to nearby property owners would have to be crossed. Similarly, in Route No. 2, a temple and the old house situated within the petitioner's property would have to be crossed. It is further submitted that the works relating to nearby towers have commenced and that certain tower works have reached the final stage. Under such circumstances, the alternative proposals would result in greater loss to the public and the Board. The project has progressed to more than 60% of the bay work at the sub-station and more than 40% of the line work.

9. It is submitted that the site inspection conducted by the ADM resulted in sanctioning of the proposed line route after visiting the site, hearing the petitioner, and reviewing the report submitted by the Board. The ADM accordingly passed the order after being convinced of the suitability of the present alignment. The respondent Board relied on the judgments in Valsamma Thomas v. Additional District Magistrate and Another [1997 (2) KLJ 798], Indu Chandran and Others v. Kerala State Electricity Board [2017 (3) KLJ 491] and Power Grid Corporation of India v. Century Textiles and Industries Limited [(2017) 5 SCC 143] to contend that the scope of judicial review in matters arising under the Telegraph Act is limited, that the discretion exercised by the District Magistrate in approving the alignment of transmission lines should not be interfered with in the absence of perversity, mala fides or procedural impropriety, and that courts must ordinarily defer to expert technical opinion in projects undertaken in the larger public interest.

10. Heard Sri. Pushparajan Kodoth, learned counsel for the petitioner, Sri.P.S. Appu, learned Government Pleader and Sri. Ajit Joy, learned Standing Counsel for the 2nd respondent.

11. On a consideration of the rival submissions and the materials placed on record, this Court finds no ground to interfere with Ext. P11 order passed by the 1st respondent. The Additional District Magistrate has acted strictly in accordance with the statutory scheme, conducted a site inspection, afforded an opportunity of hearing, and examined the route suggested by the Board, the technical report of the Board, and proposals of the petitioner, before approving the alignment. It is a settled principle of law that judicial review is concerned not with the correctness of the decision, but with the decision-making process, and unless the process is shown to be vitiated by illegality, irrationality, mala fides, or procedural impropriety, interference under Article 226 is unwarranted.

12. The reasons recorded in Ext. P11 would show that the alternative routes suggested by the petitioner were duly considered and found to be impracticable, as they would result in the line crossing residential buildings, a temple, and cause greater public inconvenience and loss to the Board, particularly when substantial progress in the project had already been achieved. The alignment

approved is based on technical feasibility, safety considerations, and minimisation of overall damage. As per the provisions of the Telegraph Act, unobstructed access to lay down telegraph and/or electricity transmission lines is an imperative in the larger public interest, and individual inconvenience must yield to such overriding public considerations.

13. In the absence of any plea or material alleging mala fides, arbitrariness, or violation of statutory provisions, this Court is not inclined to exercise jurisdiction under Article 226 of the Constitution of India in a matter involving technical and expert assessment. This Court must also defer to expert opinion in technical matters, particularly where the statutory authority has exercised its discretion judicially and for reasons recorded in writing. In *Unnimohan V. v. Additional District Magistrate* (W.P.(C) No.16168/2025), this Court held, by relying on the decisions in *Elizabeth George and Others v. Deputy Chief Engineer, KSEB, Kottayam and Others* (2013 (3) KHC 686), *Valsamma Thomas (supra)* and *V. Vignesh v. District Collector* [2012 (4) KLT SN 90], that the jurisdiction of the Additional District Magistrate under Section 16(1) of the Indian Telegraph Act is confined to examining the objections raised, assessing technical feasibility and public interest based on expert inputs, and passing a reasoned order, and that the Additional District Magistrate cannot substitute or override the technical opinion of the competent authorities once an alternative route is found to be unviable. This Court further observed that judicial review of such orders is extremely limited and is warranted only in cases of illegality, perversity, mala fides, or procedural impropriety, and that courts must ordinarily refrain from interference where the decision is founded on expert technical assessment. No grounds are made out for interference in this judicial review.

The writ petition fails and is accordingly dismissed.