
(2010) 07 KL CK 0135
In the High Court Of Kerala
Case No : W.A. No. 1071 of 2010

Hajira. K.E.

APPELLANT

Vs

The Additional District Magistrate, The Assistant Executive Engineer, Nadira and K.E. Muhammed

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Citation : (2010) 07 KL CK 0135

Hon'ble Judges : Pius C. Kuriakose, J;C.K. Abdul Rahim, J

Bench : Division Bench

Advocate : V.T. Madhavanunni, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

Abdul Rehim, J.—Appellant is the writ petitioner, who was unsuccessful in his challenge against Ext.P6 order passed by the first respondent. Matter pertains to drawing of electric line for providing domestic connection to the 3rd respondent. This is the second round of litigation before this Court at the instance of the petitioner. Earlier, Ext.P4 order passed by the first respondent was challenged in writ petition W.P.(C) No. 1527/2010. This Court relegated the matter to the first respondent for reconsideration, particularly for considering feasibility of the alternate route suggested by the petitioner. The matter was considered elaborately by the first respondent, who found that drawing of line through the route suggested by the KSEB is the most feasible and the same will not cause much prejudice to the petitioner, because substantial portion of the same passes through a pathway leading to the property of the third respondent. The existence of such a pathway as well as the right of third respondent over that pathway is not disputed by the petitioner. On the other hand, contention is that the third respondent is not having right over the full extent of the route through which the line is proposed. According to the petitioner, some portion of the proposed route will cut across her property. The alternate route suggested by the petitioner is to

draw the line from a post situated in the 4th respondent's property. According to the petitioner, the 4th respondent has no serious objection for drawing line through such a route. But the 4th respondent raised written objections before the authority concerned. Therefore, the first respondent observed that, when there is a clear cut pathway leading to the property of the third respondent, there is no question of the line being drawn through property of somebody else. It is further observed that, in fact there require no concession from the petitioner to draw line through such a pathway.

2. Learned single Judge observed that, since very existence of the pathway is not in dispute, the alternate route suggested by the petitioner do not deserve consideration. It is further observed that the third respondent has applied for connection year's back and in fact the original application was submitted by father of the third respondent, who died subsequently and that the third respondent is waiting for electric connection to her house since the last so many years.

3. Sri. V.T. Madhavanunni learned Counsel for the petitioner submitted that, objection raised by the 4th respondent with respect to drawing of line through the alternate route, is not specific and serious. We also heard Sri. Mohana Kannan, learned counsel appearing for the 3rd respondent as well as Sri. Binoy Vasudevan, learned Counsel appearing for the 4th respondent.

4. Comparative feasibility regarding different routes for drawing an electric line, is a matter which is to be decided by the concerned authority taking into consideration of various factual matters prevailing at the location. Unless serious error is pointed out with respect to the decision taken or any act of malafides on the part of such authority is convincingly proved, this Court may not be justified in interfering with such a decision. In the case at hand, it has come out that the line is proposed to be drawn substantially through a pathway upon which the beneficiary has got a right. Under such circumstances, we do not find any illegality or infirmity with the conclusions arrived by the learned single Judge in upholding the decision taken by the first respondent. There is no valid ground raised in the appeal warranting interference. Accordingly, the appeal fails and the same is hereby dismissed.