
(2014) 02 KL CK 0188

In the High Court Of Kerala

Case No : W.A. No. 215 of 2014 in W.P. (C). 491/2014

Simon

APPELLANT

Vs

Office Additional District Magistrate

RESPONDENT

Date of Decision : 03-02-2014

Acts Referred:

Telegraph Act, 1885 — Section 16, 17

Citation : (2014) 02 KL CK 0188

Hon'ble Judges : Antony Dominic, J;Anil K. Narendran, J

Bench : Division Bench

Advocate : Jose J. Matheikel and Sri. K.G. Cleetus, Advocate for the Appellant; M.P. Ashok Kumar, Sri. M. Mohammed Shafi, Sr. Government Pleader and Sri. K.M. Sathyanatha Menon, SC, KSEB, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Antony Dominic, J.—The appellants 1 to 5 and the 3rd respondent are brothers and sisters. The 6th appellant is stated to be a neighbour. The 3rd respondent constructed a house below the 11 KV line, which was admittedly without the consent of the Board. The 3rd respondent thereafter applied for a power connection. On inspection by the second respondent, he noticed that it is a 11 KV line passing above the building and he also found that there was no statutory clearance. In such circumstance, in order to provide electricity connection to the 3rd respondent, he decided to re-route the 11 KV line through a pathway leading to the house of the appellants. This was on an undertaking by the 3rd respondent that he would bear the entire cost involved. Re-routing the line was objected by the appellants. In such circumstance, the second respondent moved the first respondent u/s 16 of the Indian Telegraph Act with a prayer to remove the obstruction. The first respondent completed the proceedings and finally passed Ext.P6 order. It was challenging Ext.P6 order the Writ Petition was filed by the appellants, which was dismissed by the learned Single Judge by the impugned judgment.

2. We heard the learned counsel for the appellants, the learned Government Pleader for the first respondent, the learned Standing Counsel appearing for the second respondent and also the learned counsel for the 3rd respondent.

3. The contention raised by the learned counsel for the appellants was that power u/s 16 invoked by the first respondent to pass Ext.P6 order is not applicable to the facts of the case and that shifting of a line is permissible only u/s 17 of the Indian Telegraph Act. Therefore, according to the learned counsel, Ext.P6 order and the view taken by the learned Single Judge in upholding Ext.P6 order are illegal and call for interference.

4. Having considered the aforesaid submissions made at the Bar, which was contradicted by the counsel appearing for the first respondent, we express the inability to accept the plea of the learned counsel for the appellants. Admittedly, the 3rd respondent has constructed a residential house. He has also applied for a power connection to that building. That would not have been possible unless the re-routing of 11 KV line is done. Re-routing was objected by the appellants and it was to remove that obstruction the second respondent moved the first respondent which resulted in Ext.P6 order.

5. Section 17 of the Telegraph Act deals with shifting of an electric line within the property of a consumer or owner and that too on an application made by such person. This is not a case where the 3rd respondent had applied for shifting of the 11 KV line and on the other hand in order to provide electricity connection to his premises when the appellants caused obstruction it was the second respondent who made the application, which led to Ext.P6. Such an application made by the second respondent could have been only u/s 16 of the Telegraph Act.

We therefore do not find any substance in the submission made by the learned counsel for the appellant. The appeal is therefore dismissed.