

**(2024) 02 KL CK 0232**

**In the High Court Of Kerala**

**Case No :** Civil Revision Petition Nos.363 Of 2021 & 68 Of 2022

Sophy Joseph

APPELLANT

Vs

Power Grid Corporation Of India Ltd

RESPONDENT

**Date of Decision :** 26-02-2024

**Acts Referred:**

Code of Civil Procedure, 1908 — Section 115

**Citation :** (2024) 02 KL CK 0232

**Hon'ble Judges :** V.G.Arun, J

**Bench :** Single Bench

**Advocate :** P.T.Jose, R.Harishankar, Preetha K.K., G P Sylaja S.L., B.Premod

**Final Decision :** Dismissed

## Judgement

V.G.Arun, J

1. These revision petitions are filed challenging the order passed by the Additional District Judge-VI, Ernakulam in O.P.(Electricity) No.1171 of 2014. The original petition was filed by the revision petitioner in CRP No.363 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 her 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 11.28 Ares in Resurvey No.220/10 (Old Sy.No.138/6A-8) of Koovappady Village in Kunnathunadu 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 her 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.1,14,649/- 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 allowed the claim for enhanced compensation for the value of trees cut by awarding 50% of the compensation already granted by the Corporation. Thus, the claimant was found entitled for Rs.57,324/- towards trees cut. As far as the claim for enhanced compensation towards diminution in land value is concerned, the court below relied on Ext.A4 document as well as Exts.C2 and C2(a) commission report and plan. The Advocate Commissioner reported that there is a tar road seen on the western side as well as a pathway on the northern side of the claimant's property. It is also noticed that a furniture manufacturing unit is situated on the western side and a plastic manufacturing company on the south-west corner. Moreover, an old tiled roof house is situated in the centre of the claimant's property. Based on these factors, the court below fixed the land value of the claimant's property at Rs.1,53,000/-per cent, which is equivalent to 90% land value of the property involved in Ext.A4 document. Relying on Ext.C2(a) plan, the extent of central corridor was held to be 7.710 cents and that of the outer corridor, 9.440 cents. For the central corridor, 40% of the land value was granted as compensation and for the outer corridor, 20% of the land value. After taking into account the fact that two buildings were situated under the central and outer corridors, and having found that 6.30 cents being left as remaining property, the court below granted Rs.5,00,000/- as compensation towards the same. Accordingly, the claimant was found entitled to compensation of Rs.12,60,716/- towards diminution in land value. Dissatisfied with the quantum of enhancement, the claimant has filed CRP No.363 of 2021, whereas the Corporation has filed CRP No.68 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 granting only 50% of the amount already paid as enhanced compensation for the loss sustained due to the cutting of valuable trees, in spite of the Advocate Commissioner assessing and reporting the loss. It is submitted that there is a tar road on the western side and a pathway on the northern side of the claimant's property. A furniture manufacturing unit and a plastic manufacturing company are situated in close proximity to the property. Moreover, a house is also situated in the claimant's property. Without properly considering these crucial factors, the land value of the property is fixed as Rs.1,53,000/- only.

5. It is further submitted that the court below grossly erred in granting only 40% of the land value fixed for the central corridor and 20% for the outer corridor. In spite of there being buildings in the property and an extent of 6.30 cents rendered useless due to drawing of the electric lines, the court below granted

only Rs.5,00,000/- as compensation for the loss sustained on that account. 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 the trees cut and 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.A4 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 the land value granted for the central corridor, 20% for the outer corridor and Rs.5,00,000/- for the remaining property are exorbitant.

7. The court below had awarded 50% of the compensation already granted as additional compensation, based on the commission report as well as the detailed valuation statement. A careful scrutiny of the impugned order reveals that the claim for enhancement of compensation towards the value of trees cut was rightly considered on the basis of available evidence produced.

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 cultivation therein, and the manner in which the land was affected by drawing of the lines have all been considered fixing the land value as well as the percentage of diminution. The court below has fixed the land value at Rs.1,53,000/- which is equivalent to 90% land value of the property involved in Ext.A4 document, which according to me, is reasonable. The court below is justified in granting 40% of the land value for the central corridor, 20% for the outer corridor and Rs.5,00,000/- for the remaining property and injurious affection on the buildings situated in the property. 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 portion of the enhanced compensation is already deposited, that shall forthwith be disbursed to the claimant on appropriate application being filed.