

A THE KERALA STATE ELECTRICITY BOARD

v.

CHINAMMA ANTONY  
(Civil Appeal No. 4381 of 2008)

JULY 15, 2008

B [DR. ARIJIT PASAYAT AND H.S. BEDI, JJ.]

C *Compensation – For diminution of land value on account of electricity line – Enhanced by District Judge – Revision petition dismissed by High Court – On appeal, held: The compensation need to be determined keeping in view the principles laid down in the relevant decisions of the Supreme Court – Matter remitted to High Court.*

D Respondent was awarded compensation for diminution in land value on account of drawal of electricity line over her property. District Judge enhanced the compensation for the alleged loss. High Court dismissed the revision petition. Hence the present appeal.

E Allowing the appeal and remitting the matter to High Court, the Court

F HELD: 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 would be determinative for award of compensation. 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. So far as the compensation in relation to fruit-bearing trees are concerned the same would also depend upon the facts and circumstances of each case. The matter needs to be

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decided in view of the above principles. [Paras 3 and 5] A  
[1010 A-C; 1011-C]

*The Kerala State Electricity Board v. Livisha etc. etc.* 2007(6) SCC 792; *The Kerala State Electricity Board v. B. Sreekumari* 2008 (5) SCC 398 – relied on. B

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of 2008

From the Judgment and final Order dated 16/11/2005 of  
the High Court of Kerala at Ernakulam in C.R.P. No. 960 of 2005 C

M.T. George for the Appellant.

The Judgment of the Court was delivered by

**Dr. ARIJIT PASAYAT, J** 1. Leave granted.

2. Challenge in this appeal is to the judgment of a learned D  
Single Judge of the Kerala High Court dismissing the Civil Revi-  
sion Petition filed by the appellant-the Kerala State Electricity Board  
(in short the 'Board'). Challenge in the Civil Revision was to the  
order passed by Learned Additional District Judge, Thodupuzha,  
granting the enhanced compensation for alleged loss suffered by E  
the respondent (hereinafter referred to as the 'claimant') on ac-  
count of drawal of electricity line over her property. The dispute  
related to the compensation awarded for diminution in land value  
and the grant of interest. Relying on a full Bench decision on a  
Kerala High Court in *Kumba Amma v. K.S.E.B.* [2002 (1) KLT F  
542], the High Court dismissed the Civil Revision Petition.

3. In support of the appeal learned counsel for the appel-  
lant-Board submitted that the High Court's judgment is clearly  
unsustainable as the Full Bench decision in *Kamba Amma's*  
case (supra) was set aside by this court in *The Kerala State* G  
*Electricity Board v. Livisha etc. etc.* [2007(6) SCC 792] by the  
common judgment in Civil Appeal No. 289 of 2006 and other  
Civil Appeals. This Court set aside the impugned order in each  
case and remitted the matter back to the High Court for a fresh  
consideration. It was inter-alia observed as follows: H

A        “10. The situs of the land, the distance between the high  
B        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  
C        the land and other similar relevant factors in our opinion  
       would be determinative. The value of the land would also  
D        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.

C        11. So far as the compensation in relation to fruit-bearing  
       trees are concerned the same would also depend upon  
       the facts and circumstances of each case. We may,  
       incidentally, refer to a recent decision of this Court in *Land*  
D        *Acquisition Officer v. Kamadana Ramakrishna Rao*  
       (2007(3) SCC 526) wherein claim on yield basis has been  
       held to be relevant for determining the amount of  
       compensation payable under the Land Acquisition Act;  
       same principle has been reiterated in *Kapur Singh Mistri*  
E        *v. Financial Commr. & Revenue Secy. to Govt. of Punjab*  
       (1995 Supp(2) SCC 635), *State of Haryana v. Gurcharan*  
       *Singh* (1995 Supp(2) SCC 637), para 4 and *Airports*  
       *Authority of India v. Satyagopal Roy* (2002(3) SCC 527).  
       In *Airports Authority's case* (*supra*) it was held: (SCC p.  
       533, para 14)

F        “14. Hence, in our view, there was no reason for the High  
       Court not to follow the decision rendered by this Court in  
       *Gurcharan Singh's case* (*supra*) and determine the  
       compensation payable to the respondents on the basis of  
       the yield from the trees by applying 8 years' multiplier. In  
G        this view of the matter, in our view, the High Court  
       committed error apparent in awarding compensation  
       adopting the multiplier of 18.”

H        12. We are, therefore, of the opinion that the High Court  
       should consider the matter afresh on the merit of each

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matter having regard to the fact situation obtaining therein. A  
The impugned judgments, therefore, cannot be sustained.  
These are set aside accordingly. The matters are remitted  
to the High Court for consideration thereon afresh. The  
appeals are allowed. In the facts and circumstances of the  
case, there shall be no order as to costs. B

4. There is no appearance on behalf of the respondent  
though notice has been served.

5. Following the view expressed by this Court in the deci-  
sion referred to above, and in *The Kerala State Electricity Board* C  
*v. B. Sreekumari* (2008 (5) SCC 398), we set aside the im-  
pugned order of the High Court and remit the matter to it for  
fresh consideration keeping in view the principles set out in the  
decisions referred to above.

6. The appeal is allowed without any order as to costs. D

K.K.T.

Appeal allowed.