

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO 923 of 2019

Noushad Thekkayil : Applicant(s)
Vs
State of Kerala & Others : Respondent(s)

VOLUME 1

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Dated this the 23rd day of December 2019

Jogy Scaria, Advocate
ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO.923 OF 2019

**REPORT FILED BY NODAL OFFICER, THE CHIEF ENVIRONMENTAL
ENGINEER, REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF
THE KERALA STATE POLLUTION CONTROL BOARD AS PER THE ORDER
DATED 01.11.2019 IN THE ABOVE APPLICATION**

Adv. Jogy Scaria.

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT:

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

ORIGINAL APPLICATION NO. 923/2019

Applicant(s) : Noushad Thekkayil

Versus

Respondent(s) : The State of Kerala

**REPORT FILED BY THE NODAL OFFICER, THE CHIEF ENVIRONMENTAL
ENGINEER, REGIONAL OFFICE, ERNAKULAM FOR AND ON BEHALF OF
THE KERALA STATE POLLUTION CONTROL BOARD AS PER THE ORDER
DATED 01.11.2019 IN THE ABOVE APPLICATION**

I, M.A Baiju, 53 years, S/o M.K Aravindakshan, now working as Chief Environmental Engineer, Regional Office, Kerala State Pollution Control Board, Ernakulum. I am competent to and duly authorized to represent the Board. I have learnt the facts and circumstances of the case. The factual submissions made here under are true and correct to the best of my knowledge, information and belief. In these circumstances, it is just and necessary that this Hon'ble Tribunal may be pleased to accept the accompanying report on file and it is so humbly prayed in the interests of justice in this case.

This application is primarily against the encroachment of Kerala State Electricity Board (KSEB) in a private property namely "Santhivanam", located at Vazhikulangara, North Paravoor, owned by Smt.Meena Menon, Thundipparambil house, Vazhikkulangara, N.Paravur. As per the petition, it is alleged that the KSEB encroached the private land of Smt. Meena Menon for the installation of a transmission line for the project, a 110KV substation at Cherai to draw Extra High Tension Transmission line from Mannom. She further explained that a complaint was registered before the District Collector requesting that it should be drawn straight from the tower located on eastern side of the high way to the lower western side of her property, to avoid any tower in her property where thick vegetation is available. This was done prior to drawing the lines. She pointed out that the said land is a "Kavu"(small forest) with lots of endangered species of birds, reptiles, medicinal and rare species trees, with lot of microorganisms and hence the biodiversity of the land is to be protected.



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Chief Environmental Engineer

It is important to note that the District Collector ordered an enquiry and allocated the Additional District Magistrate for conducting enquiry. As a part of the enquiry, all the parties were heard. In the report of the District Collector, Ernakulam, it is stated that "Vypin" island is very densely populated area which includes "Cherai" Tourism sector and "Munambam" Fishing Harbour and there are about 40,000 electrical consumers in the area and the power to that area was drawn from the three substations, namely 66KV substation "Njarakkal", 110KV substation "North Paravoor" and 33KV substation "Vadakkekara". Hence KSEB proposed a 110KV substation at "Cherai" to draw Extra High Tension Transmission line from "Mannom" for which administrative sanction was received as early as on April 1999 and line route was approved on 14.08.2008. The transmission line proposal through the above said Santhivanam was effected strictly based on that. As per the KSEB, the original route proposed by them was the most technically feasible one as it passes through the less vegetated portion of the land. Sanction was therefore accorded to KSEB to draw lines through the proposed route. It is also to be noted that Smt. Meena Menon approached Hon'ble High Court of Kerala against this order and Hon'ble court considered the petition along with some other writ petitions filed against the "Mannom" to "Cherai" 110KV transmission line project and in its judgment dated 05.04.2019 in WP (C) No.27114 of 2017, Hon'ble High Court dismissed all such petitions with the finding of "No merit in the writ petitions". Copy of the Judgement is produced herewith and marked as **Annexure-A**. When KSEB started tower installation works within the property of Smt. Meena, she again approached District Collector on 27.04.2019 claiming that even if the court dismissed her petition, the environmental issues caused to the Santhivanam, the biodiversity land due to the project implementation is to be considered and proper remedial steps should be taken to protect the "Kavu". The District Collector, Ernakulam personally visited the site on 01.05.2019 and a meeting was held on 02.05.2019 with the complainant Smt. Meena Menon in the presence of Santhivanam Protection Committee members, KSEB authorities and Assistant Conservator of Forest, Social Forestry division, Ernakulam. During the meeting, the complainants pointed out that about 48 trees in the "Kavu" would be cut down additionally as per KSEB list and it will destroy the biodiversity of the "Kavu". They also illustrated that the slurry waste during the piling dumped in the "Kavu" almost spoiled the fertile soil in the said land killing many microorganisms and vegetation in the said land and hence they requested to deviate the line route beyond the property of




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Smt. Meena menon. KSEB authorities stated that the present line is at a height of 19.4m and hence there will be minimum damages to the grooves in the "Kavu" and alignment change is not technically feasible at this stage. A report was called from the Assistant Conservator of Forests and in his report dated 04.04.2019, he pointed out that the Santhivanam can be treated as a wooded area or at the best a managed sacred drive and the accrued ecological services rendered by the area can be replicated to elsewhere to maximum extent, by resorting to compensatory planting. As the project proposed by KSEB is beneficial to almost 40,000 consumers in "Cherai" Sector and about the 23 tower foundations out of the 30 have been completed and 14 towers have been erected and two kilometers of conductor stringing completed and the following steps need be taken while implementing the work.

1. Existing proposal for the tower at a height of 19.4m to be enhanced to 22.4m and adjacent tower on western side at a height of 21.4m is to be enhanced to 24.6m so that the number of trees to be cut down reduces to only 3 and 5 numbers of trees would need to trimmed.
2. Compensatory a forestation @ ten times of trees cut/lopped /trimmed needs to be undertaken as envisaged in the GO (Rt) No.172/2010/F&WLD dated 21.04.2010, should be made at the expense of KSEB with the supervision of Social Forestry Department.
3. Any cutting/removal/pruning may be undertaken with minimizing the damage to the existing "Kavu" and surrounding trees.
4. At all point of time, work may be carried out under professional guidance from KSEB and Forest department to avoid any further damage which may arise out of the shoddy workmanship of labours engaged.
5. At most care should be taken not to spill slurry waste in the disputed land.

In compliance with the order of the Hon'ble National Green Tribunal in O.A No.923/2019, Member Secretary, Kerala State Pollution Control Board assigned the Chief Environmental Engineer, Regional Office, Ernakulam as the nodal officer for addressing the above case. Proper communication was given to District Magistrate, Ernakulam and Principal Chief Conservator of forests, Thiruvananthapuram regarding the same through the letter dated 11.11.2019 of the Member Secretary. Further, Chief Environmental Engineer, Regional Office , Ernakulam also contacted both of them vide letter dated 27.11.2019 intimating the date of joint inspection on 29.11.2019, also over phone. On 29.11.2019, the Chief Environmental Engineer inspected the site along with the Sri. Sunilal, Deputy Collector, appointed as representative of the District



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Magistrate where as representative of the Principal Chief Conservator of the Forest was not present during the inspection. KSEB authorities were also present there. During joint inspection it was understood that "Santhivanam" is a private land at the western side of the National Highway 66 (Ernakulam-Guruvayoor). It was also found that the plot is filled with thick vegetation and an old house in which nobody is residing. During the inspection the property owner was not present as she was not available nearby. Tower installation is found to be completed which is located in the western side of residence of Smt. Meena Menon. A 20m dia pond is situated in the plot at a distance of about 10m from the tower. KSEB authorities informed that 40m depth piling was carried out for the tower and the piling wastes were transferred from the plot. Not found any spillage of piling waste in the premises. No pollution problems noticed in the premises/water body other than a natural look of a vegetated land. Even though the Principal Chief Conservator of Forest or his representative was not present during joint inspection, a letter was issued 09.12.2019 to Principal Chief Conservator of forests, Thiruvananthapuram requesting to submit a report explaining their views on this issue. The reply submitted by the Additional Chief Conservator of Forest is produced herewith and marked as **Annexure-B**.

At this juncture, I may humbly report as follows

The main contention of the petitioner was that permission to install the transmission line should not have been given as the property is a "Kavu"(small forest) with lots of endangered species of birds, reptiles, medicinal and rare species of land with lot of microorganisms and hence the biodiversity should not have been spoiled. After the installation also the property owner asked for a remedy on the disposal of the slurry waste during the piling operation which almost spoiled the fertility of the soil would kill many microorganisms and vegetation in the said land.

While perusing the reports of the Forest Department, it is understood that the KSEB is the agency supposed to take care of certain vegetation by enhancing the height of the tower up to 3 m from the earlier proposed 19.4 m and along western side from 21.4 m to 24.6 m and they have already completed these works. Also they are proposing sufficient compensative forestation as remedial measures. Also the KSEB reported that the piling waste was removed from the plot not allowing spreading nearby area. In short, if the balance works as mentioned also are finished, it can be said that all the remedial measures




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and compensatory mechanisms against the tower installation by KSEB are satisfactorily completed.

I may also humbly submit that the omissions if any occurred from my part are not intentional. I offer my apologies on the inconvenience caused if any to this Hon'ble Tribunal in the delay occurred in filing the report is due to time constrains faced by me. Since there has been no failure to discharge its duty on the part of the answering respondent, no orders of this Hon'ble Tribunal are called for as against the answering respondent in the facts and circumstances of this case.

All the facts stated above are true to the best of my knowledge, information and belief.

Dated this the 23rd day of December 2019

M. A. BAIJU (NODAL OFFICER)

M. A. BAIJU
Chief Environmental Engineer



**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNEL
PRINCIPAL BENCH, NEW DELHI**

APPLICATION NO.923 OF 2019

Noushad Thekkayil : Applicant(s)
Vs

State of Kerala & Others : Respondent(s)

VERIFICATION

I M A Baiju aged 53 years, S/o M K Aravindakshan, Chief Environmental Engineer of the Kerala State Pollution Control Board, duly authorized to file this reply on behalf of the Kerala State Pollution Control Board do hereby verify on this the 23rd day of December 2019, that all what is stated above are true and correct to the best of my knowledge information and belief and is borne out from the records maintained in our office and all the allegations and averments in the application are denied except those that are specially admitted there under. The above petition is not maintainable either in law or on facts.

M A BAIJU

Chief Environmental Engineer

M. A. BAIJU
Chief Environmental Engineer



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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APPLICATION NO 923 of 2019

Applicant(s) : Noushad Thekkayil

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Dated this the 23rd day of December 2019

Jogy Scaria, Advocate
ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

WP(C).No.27114 of 2017

PETITIONER:

MEENA ALIAS PREETHA
D/O LATE RAVINDRANATH MENON, AGED 46 YEARS,
THUNDAPARAMBIL HOUSE, VAZHIKKULANGARA,
NORTH PARAVUR, ERNAKULAM DISTRICT-683 513.

BY ADV. KUM.NIHARIKA HEMA RAJ

RESPONDENTS:

- 1 ADDITIONAL DISTRICT MAGISTRATE
ERNAKULAM - 682 030.
- 2 THE ASSISTANT EXECUTIVE ENGINEER
TRANSMISSION SUB DIVISION, KERALA STATE ELECTRICITY
BOARD LIMITED, MANNAM POST, NORTH PARAVUR, ERNAKULAM
DISTRICT-683 513.

BY ADVS.

SMT.KAVERY S THAMPI
SRI.K.M.SATHYANATHA MENON
SRI.S.GOPINATHAN, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2019, ALONG WITH WP(C)Nos.29110 & 29175 of 2017, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:




M. A. BAIJU
Chief Environmental Engineer

W.P.(C) No.27114/2017 & conn. cases 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

WP(C).No.29110 of 2017

PETITIONERS:

- 1 PRAMOD.V
AGED 41 YEARS, THANTHONIKKAL, VEEDU,
NANTHIATTUKUNNAM, NORTH PARAVUR P.O., PIN-683513.
- 2 N.K.GOPALAKRISHNAN ELAYIDAM,
73 YEARS, RETIRED MUNICIPALITY EMPLOYEE, ASWATHI,
VIRAD ROAD, KIZHAKKEPURAM (VAZHIKULANGARA), NORTH
PARAVUR P.O., PIN-683513.
- 3 K.M.MATHAI
65 YEARS, RETIRED GOVERNMENT SERVANT, KACHAPPILLY,
"LIYA GARDEN", VIRAD ROAD, KIZHAKKEPURAM
(VAZHIKULANGARA), NORTH PARAVUR P.O., PIN-683513.
- 4 BABU M.L.
44 YEARS, MEPPILLIPARAMBIL, KEDAMANGALAM,
NORTH PARAVUR P.O., PIN-683513.
- 5 D.SATHEESH KUMAR
45 YEARS, MAKKA PARAMBIL, VAZHIKULANGARA,
NORTH PARAVUR P.O., PIN-683513.
- 6 SHYAMALA RAMACHANDRAN
60 YEARS, SREE LAKSHMI, ASARI LANE, MONASTRY ROAD,
KOCHI-682011.

BY ADVS.

SRI.M.P.RAMNATH
SEI.M.VARGHESE VARGHESE
SMT.S.SANDHYA
SRI.BEPIN PAUL
SRI.P.RAJESH (KOTTAKKAL)
SRI.SHALU VARGHESE



M. A. BAJU
Chief Environmental Engineer

W.P.(C) No.27114/2017 & conn. cases 3

RESPONDENTS:

- 1 THE ADDITIONAL DISTRICT MAGISTRATE, ERNAKULAM,
COLLECTORATE, KAKKANAD, COCHIN-682030.
- 2 THE ASSISTANT EXECUTIVE ENGINEER
TRANSMISSION SUB DIVISION, KSEB, MANNOM P.O.,
NORTH PARAVUR, PIN-683520.
- 3 BHARGAVAN NAIR
VELLACHERIL HOUSE, NANTHIATTUKUNNAM, NORTH PARAVUR,
PIN-683513.
- 4 K.V.RAMAKRISHNAN
MANAGER, SN ARTS & SCIENCE COLLEGE, KEDAMANGALAM,
NORTH PARAVUR, PIN-683513.
- 5 K.G.RAJEEV,
110 KV LINE ACTION COUNCIL CHAIRMAN,
KUPPAYIL HOUSE, KAITHARAM P.O., N.PARAVUR,
PIN-683519.
- 6 SUSEELA
W/O.LATE SUBRAMANIAN, NIKATHIL (H),
DISPENSARY STOP, CHERAI, PIN-683514.
- 7 SIJU N.S.
S/O.LATE SUBRAMANIAN, NIKATHIL (H), DISPENSARY
STOP, CHERAI, PIN-683514.
- 8 NISHA
(D/O.LATE SUBRAMANIAN), W/O.NARAYANAN KUTTY,
ANCHALASERY (H), KOTTUVALLY, PIN-683513.

ADDL. UNION OF INDIA,
R9. MINISTRY OF POWER, SHRAM SHAKTHI BHAVAN, RAFI MARG,
NEW DELHI-110004, REPRESENTED BY SECRETARY.

(ADDITIONAL R9 IS IMPEADED AS PER ORDER DATED
08/12/2017 IN IA 19797/17).

BY ADVS.
SMT.KAVERY S THAMPI
SRI.G.SREEKUMAR (CHELUR)
SRI.ISAC SANJAY




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Chief Environmental Engineer

W.P.(C) No.27114/2017 & conn. cases

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SRI.JAISHANKAR V.NAIR, CGC
SRI.M.T.AJITH
SRI.V.A.PRADEEP KUMAR
SMT.SAJITHA GEORGE
SRI.K.M.SATHYANATHA MENON
SRI.P.J.JOSEPH
SRI.SHAIJAN C.GEORGE
SRI.S.GOPINATHAN, SENIOR GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2019, ALONG WITH WP(C)Nos.27114 & 29175 of 2017, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:




M. A. BAIJU
Chief Environmental Engineer

W.P.(C) No.27114/2017 & conn. cases

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 05TH DAY OF APRIL 2019 / 15TH CHAITHRA, 1941

WP(C).No.29175 of 2017PETITIONERS:

- 1 BHARGAVAN NAIR
AGED 67, S/O SREEDHARAN NAIR, VELLACHERIL HOUSE,
NANDHYATTUKUNNAM, NORTH PARAVUR,
ERNAKULAM DISTRICT-683513.
- 2 HARIHARAN PILLAI
AGED 71, S/O P G NARAYANANKUTTY PILLA,
VEENUS, NANDHYATTUKUNNAM, NORTH PARAVUR,
ERNAKULAM DISTRICT-683513.
- 3 THRESSIAMMA CHACKO
AGED 65, W/O CHACKO, NANDHYATTUKUNNAM,
NORTH PARAVUR, ERNAKULAM DISTRICT-683513.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

- 1 THE ADDL.DISTRICT MAGISTRATE
OFFICE OF THE ADDL. DISTRICT MAGISTRATE, ERNAKULAM.
- 2 THE ASSISTANT EXECUTIVE ENGINEER
TRANSMISSION SUB DIVISION, KSEB, MANNAM, P O NORTH
PARAVUR, ERNAKULAM - 683513.
- 3 THE ASSISTANT EXECUTIVE ENGINEER
SUB STATION SUB DIVISION, KURUMASSERY, KSEB,
MANNAM P O, ERNAKULAM DISTRICT - 683520.

BY ADVS.

SMT.KAVERY S THAMPI

SRI.K.M.SATHYANATHA MENON

SRI.P.M MANOJ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
05.04.2019, ALONG WITH WP(C)Nos.27114 & 29110 OF 2017, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:



M. A. Baiju
M. A. BAIJU
Chief Environmental Engineer

A. MUHAMED MUSTAQUE, J.

W.P. (C) Nos.27114, 29110 &
29175 of 2017

Dated this the 5th day of April, 2019

J U D G M E N T

These cases are filed by the land owners aggrieved by the orders of the Additional District Magistrate, Ernakulam, under Section 16 of the Indian Telegraph Act, 1885 (for short, the Act). I have consolidated all these cases for disposal by this common judgment for the reason that the dispute arose out of drawing 110 KV electricity supply line in the stretch of Mannom-Cherai, though each of the writ petitions require separate consideration as well on factual matters. I shall deal with the cases on specific factual matters separately in this judgment.

2. The Kerala State Electricity Board (KSEB) decided to draw 110 KV double circuit line from Mannom to Cherai sub station. 110 KV sub station is sanctioned at Cherai. The administrative sanction was issued on 21.04.1999. The final line route was




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W.P.(C) Nos.27114/2017 & conn. cases

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approved in the year 2008. Initially the cost was estimated at Rs.7,80,000/-. As on today, the cost is estimated at Rs.30.47 crores. The number of tower to be commissioned by April 2019 is 32. This is the factual background of challenge made in all these writ petitions.

3. W.P.(C) No.29110 of 2017 was filed by one Pramod V and others. That writ petition was filed on behalf of 116 affected persons. Court fee was also paid accordingly. Sri.M.P Ramnath leaded the argument on behalf of the petitioners. In principal, he raised three grounds of challenge. One is pointing out with respect to the existing line. He would argue that an upgradation would save money and power and also would ultimately result in avoiding drawing of line through the petitioners' property. Learned counsel also argued that there is no difficulty to draw the line through underground in the light of advancement of technology. The third argument is precisely on the availability of alternative route. Learned counsel points out the alternative route and argued that in order to save the encroachers of the




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Government land in the alternative route, the KSEB had decided to draw line through the present route which is under challenge in this writ petition. This alternative route is through Cheriappilly-Kundekavu canal maintained by the Minor Irrigation Department. According to the learned counsel, the width of canal has been reduced due to encroachment and if the encroachments are removed, the impact of drawing of line through residential area can be reduced. Learned counsel particularly placed reliance on Regulation 86 to 88 of Central Electricity Authority (Technical Standards for Construction of Electrical Plants and Electric Lines) Regulations, 2010. Regulation 88 (3) says that line routing should avoid large habitations, and densely populated areas.

4. W.P.(C) 29175 of 2017 was filed challenging the orders of the Additional District Magistrate under Section 16 of the Act. It appears that the petitioners have raised objection in regard to drawing of line based on the present route stating that large number of trees would have to be cut and removed. The petitioners suggested for an alternative




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 Chief Environmental Engineer

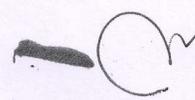
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route. That objection was overruled in the impugned orders.

5. W.P.(C) 27114 of 2017 was filed challenging the order of the Additional District Magistrate under Section 16 of the Act. The petitioner's proposal for alternative route was considered. The petitioner also filed a review petition stating that the Additional District Magistrate committed a patent error in finding that the petitioner had not consented to the alternative route plan. In the property belonged to the petitioner, a tower was placed on the side of the residential building. She appears to have proposed shifting it to further north so as to save her residential building. The petitioner appears to have been maintaining different plants in this particular area as habitat. She appears to be more concerned in protecting her plants which includes medicinal plants as well. The petitioner also submitted that the property is also frequented by migratory birds as well. There exists three 'Kavus' (sacred groves) in the property. It appears that initially a route was approved without




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affecting the Kavus. The petitioner has a case that if the alignment is shifted to further north of her property, it would save her residential building and the 'Kavus'. This proposal was, according to the petitioner, wrongly found in the order that the petitioner has not agreed for such proposal. This is how a review petition was filed before the Additional District Magistrate.

6. This Court, in exercise of the power of judicial review, has limited jurisdiction in regard to the disputed questions on facts. The Electricity Board is an expert body. It is for the Board to formulate the route in a manner expedient to them. The scope of judicial review, therefore, exists on narrow parameters. The consideration of the objections by the Additional District Magistrate is based on statutory provisions. Section 10 of the Act confers power on the telegraph authority to place and maintain telegraph lines and posts. Section 10(d) of the Act states that the power conferred on the telegraph authority has to be exercised with a discretion causing least damage as possible. The




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power conferred upon the District Magistrate under Section 16 of the Act is to decide the objections when drawing of line is resisted or obstructed. This power essentially is to find out whether drawing of line was in tune with the mandate under Section 10(d) of the Act. The scope of enquiry by the District Magistrate, therefore, confined to finding out the impact of drawing of line over the property of the persons who are obstructing to it. The District Magistrate, therefore, has to evaluate all the options generated before him to satisfy himself that the approved route would cause least damage among the options.

7. The petitioners had approached this Court in an earlier round of litigations in various writ petitions. This Court, noting that there was no proper hearing on the objections on feasibility report, directed the Additional District Magistrate for a de nova consideration. It was in the judgment in W.P.(C) No.4844 of 2011 and connected matter. In another writ petition, W.P.(C) No.5259 of 2011, this Court appears to have appointed an Advocate




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Commissioner. In the proceedings before the Additional District Magistrate, an Advocate Commissioner was appointed. The Advocate Commissioner filed a detailed report. The Additional District Magistrate adverted to the report while considering the objections of the petitioners before passing the impugned orders.

8. Now I shall advert to the orders impugned in W.P.(C) Nos.29110 and 29175 of 2017. The orders impugned in these writ petitions are one and the same. The Additional District Magistrate, after adverting to the rival contentions and also the commission report, permitted the Board to construct 110 KV EHT line from Mannon to Cherai through the original route till it reaches at Location 15 observing that it is technically and economically feasible. It was also observed that the alternative route suggested by the petitioners is not technically feasible. However, it appears that some slight deviation was made to avoid the crossing of 110 KV EHT line through the middle of the playground of S.N Arts & Science College, Kadamangalam. The court




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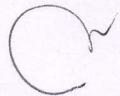
W.P.(C) Nos.27114/2017 & conn. cases

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cannot interfere with the finding on facts unless such finding on facts is perverse and erroneous on the face of record. This Court is not an appellate authority to form a different opinion based on the materials on record. The Commissioner did not point out any alternative route which is technically and economically feasible. Though there are certain allegations raised at the Bar pointing out that the Commissioner was prevented from examining alternative route by the officials of the KSEB, I find no materials to substantiate the above argument. The argument of the learned counsel for the petitioners that the line should be drawn through the banks of the canal is found untenable. This Court cannot upset such finding on facts.

9. The arguments raised by the learned counsel, Sri.M.P.Ramnath, suggesting upgradation of existing lines and drawing line through underground, are all matters on which a policy decision has to be taken by the Board. The Board is an expert body. In what manner they should draw the line would depend upon many factors including the financial obligations.




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Apart from that, in the counter affidavit filed before this Court, the Board had stated the reasons for their inability to accept such proposal. Therefore, this Court cannot consider those objections.

10. Learned counsel for the petitioner in W.P.(C) No.27114 of 2017, Ms.Niharika Hema Raj, very strenuously argued on behalf of the petitioner. She narrated the emotional attachments of the petitioner with her property and submitted that her suggestion for alternative route was not considered by the Additional District Magistrate. It is seen from the impugned order that the Additional District Magistrate directed the Board to find out the possibility of alternative route suggested by the petitioner. It is also seen that the Additional District Magistrate had recorded the submissions of the petitioner as follows:

"The respondent replied that she is not satisfied with the present suggestion of the KSEB for erecting tower on the northern portion of her property, since the 'kavu', situated in this area will be completely damaged due to




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erection of tower. Respondent further submitted that the objection is not for saving her house or property, but for protecting the nature and hence requested to shift the tower towards the northern side of her property".

11. Aggrieved by the above observations and findings, the writ petitioner filed a review. The review was filed as early as on 29.05.2017. Learned counsel argued that the Additional District Magistrate erroneously observed that the petitioner's interest is to protect the 'Kavus' and not the house. The alternative suggestion mooted by the writ petitioner would have been feasible if it was pointed out then and there. The writ petition was filed in the year 2017. There was no interim orders in this matter. When this matter was taken up for hearing, it is submitted that the line is almost complete except for erecting tower in the writ petitioner's property and any further deviation would result in delaying the commission of project as well as heavy loss to the Board. The petitioner could have pressed for an alternative line at the very beginning of the writ petition itself. Once a line is almost drawn, it may not be possible for this Court to direct the



A handwritten signature in black ink, appearing to be "M. A. Baiju".

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Chief, Environmental Engineer

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Board to shift the line ignoring the impact that likely to arise consequent upon such direction. However, nothing prevents the petitioner from seeking shifting of line in appropriate manner. In the light of the discussions as above, I find no merit in these writ petitions.

These writ petitions are accordingly dismissed.
No costs.

Sd/-

A. MUHAMED MUSTAQUE
JUDGE

smp




M. A. BAIJU
Chief Environmental Engineer

APPENDIX OF WP(C) No.27114/2017PETITIONER'S EXHIBITS:

- EXHIBIT P1: DATED NIL TRUE COPY OF THE REPORT TITLED "PLANT DIVERSITY OF SANTHIVANAM, NORTH PARAVUR, ERNAKULAM DISTRICT, KERALA.
- EXHIBIT P2: DATED 15.2.2013 - TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WPC NO.5259 OF 201.
- EXHIBIT P3: DATED11.2016- TRUE COPY OF THE ADDITIONAL COMMISSION REPORT.
- EXHIBIT P4: DATED 10.2.2017 - TRUE COPY OF THE REPORT SUBMITTED BY RESPONDENT NO.2.
- EXHIBIT P5: DATED 5.9.2013 - TRUE COPY OF PLAN TITLED PROPOSED DEVIATION FROM L6 TO L8A IN CONNECTION WITH DISPUTE AT SANTHIVANAM AS DIRECTED BY HONOURABLE ADM, ERNAKULAM PROVIDED BY RESPONDENT NO.2.
- EXHIBIT P6 DATED 15.4.2017-TRUE COPY OF THE PROCEEDINGS OF RESPONDENT NO.1 BEARING NO.K.DIS.62623/2013/M5.
- EXHIBIT P7: DATED 29.5.2017-TRUE COPY OF THE REVIEW PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.
- EXHIBIT P8: DATED 16.6.2017-TRUE COPY OF THE ORDER PASSED BY RESPONDENT NO.2 DISMISSING THE REVIEW PETITION.
- EXHIBIT P9 TRUE COPY OF THE LETTER NO.AE/TCS/CHERAI/18-19/62 SENT BY THE ASSISTANT ENGINEER, KSEB LTD., CHERAI.
- EXHIBIT P10 PHOTOGRAPH DATED 20/03/2019 TAKEN BY THE PETITIONER OF THE PIT DUG IN THE PROPERTY.



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- EXHIBIT P11 PHOTOGRAPH DATED 20/03/2019 TAKEN BY THE PETITIONER SHOWING A WIDER VIEW OF THE PIT DUG IN THE PROPERTY.
- EXHIBIT P12 LETTER DATED 20/03/2019 BY THE SECRETARY, KOTTUVALLY GRAMA PANCHAYAT.
- EXHIBIT P13 SKETCH WITH THE CORRECT POSITIONS OF KAVUS MARKED OUT BY THE PETITIONER.

RESPONDENTS' EXHIBITS:

- EXHIBIT R2 (a) TRUE COPY OF THE ORDER
NO.K.DIS.13597/2011/M5 DATED 28/04/2017 OF THE
FIRST RESPONDENT.

True Copy

P.S to Judge

smp




M. A. BAIJU
Chief Environmental Engineer

APPENDIX OF WP(C) No.29110/2017PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE MASS REPRESENTATION SIGNED BY RESIDENTS SUBMITTED BEFORE THE CENTRAL MINISTER SRI.K.V.THOMAS AT A PUBLIC MEETING AT PARAVUR ON 12-12-2009.
- EXHIBIT P2 TRUE COPY OF THE COMPLAINT DATED 17-12-2009 SUBMITTED BY PETITIONERS 1 TO 4 AND 3RD RESPONDENT REPRESENTING THE PERSONS IN THE AREA, TO THE KSEB OFFICIALS, THE DISTRICT COLLECTOR AND THE 1ST RESPONDENT, ALONG WITH THE COPY OF THE MASS REPRESENTATION DT 12-12-2009 GIVEN TO THE CENTRAL MINISTER APPENDED HEREWITH.
- EXHIBIT P3 TRUE COPY OF COMPLAINT DATED 14-12-2009 FILED BY VIRAD RESIDENTS ASSOCIATION BEFORE HON'BLE HUMAN RIGHTS COMMISSION, KERALA STATE.
- EXHIBIT P4 TRUE PHOTOCOPY OF THE JUDGMENT DATED 18-02-2010 OF THE HON'BLE COURT IN WP(C) 3455/2010.
- EXHIBIT P5 TRUE PHOTOCOPY OF THE PETITION DATED 22-02-2010 FILED BY THE 2ND RESPONDENT (KSEB) BEFORE THE ADM (1ST RESPONDENT).
- EXHIBIT P6 TRUE PHOTOCOPY OF THE OBJECTIONS DATED 24-03-2010 FILED BY THE PETITIONERS THROUGH COUNSEL ALONG WITH APPROXIMATE LIST OF HOUSES AFFECTED IN KOTTUVALLY PANCHAYATH AND EZHIKKARA PANCHAYATH.
- EXHIBIT P7 TRUE PHOTOCOPY OF THE FEASIBILITY REPORT DATED 11-11-2010 FILED BY THE 2ND RESPONDENT BEFORE THE ADM ALONG WITH THE SKETCH SHOWING THE ORIGINAL ROUTE AND NEW ROUTE (ALTERNATE ROUTE).




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- EXHIBIT P8 TRUE PHOTOSTAT COPY OF THE OBJECTIONS FILED BY THE PETITIONERS DATED 08-01-2011 TO EXHIBIT P7 FEASIBILITY REPORT, BEFORE THE ADM.
- EXHIBIT P9 TRUE PHOTOCOPY OF THE ORDER SUPPOSED TO BE DATED 24-01-2011 ISSUED BY THE ADM IN PROCEEDING NO.K.DIS/12620/2010/M5 RECEIVED ON 07-02-2011, SEEN POSTED FROM COLLECTORATE-KAKKANAD P.O. ON 04-02-2011.
- EXHIBIT P10 TRUE PHOTOCOPY OF THE COMMON JUDGMENT DATED 15-02-2013 OF THIS HON'BLE HIGH COURT IN WP(C)NO.5259 OF 2011.
- EXHIBIT P11 TRUE PHOTOCOPY OF THE OBJECTIONS DATED 17-12-2013 WITH REQUEST FOR INSPECTION OF A SUGGESTED MARSHY/WETLAND ROUTE, FILED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT ADM.
- EXHIBIT P12 TRUE PHOTOCOPY OF THE JUDGMENT DATED 04-07-2014 IN WP(C)NO.16080 OF 2014 OF THIS HON'BLE COURT.
- EXHIBIT P13 TRUE PHOTOCOPY OF THE ENTIRE COMMISSION REPORT DATED 23-06-2016 SUBMITTED BY ADV DEEPU K.V.
- EXHIBIT P14 TRUE PHOTOSTAT COPY OF THE OBJECTIONS DATED 19-07-2016 FILED BY THE PETITIONERS AND OTHERS THROUGH COUNSEL TO THE EXT P13 COMMISSION REPORT.
- EXHIBIT P15 TRUE PHOTOSTAT COPY OF THE OBJECTIONS DATED 04-08-2016 FILED BY THE PETITIONERS HEREIN TO THE COMMISSION REPORT BEFORE THE 1ST RESPONDENT.




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- EXHIBIT P16 TRUE PHOTOCOPIES OF THE SKETCHES ALONG WITH LIST OF HOUSES GIVEN TO THE ADVOCATE COMMISSIONER FOR INSPECTION BY KSEB THE 2ND RESPONDENT, IN TWO PARTS WITH COVERING LETTER DATED 20-08-2013 AND 05-10-2013, SUPPOSED TO BE PERTAINING TO THE ORIGINAL PROPOSED ROUTE.
- EXHIBIT P17 TRUE PHOTOCOPIES OF THE SKETCHES ALONG WITH LIST OF HOUSES GIVEN TO THE ADVOCATE COMMISSIONER FOR INSPECTION BY THE KSEB THE 2ND RESPONDENT ALONG WITH LETTER DT 11-11-2013 SUPPOSED TO BE IN RESPECT OF THE ALTERNATE SUGGESTED ROUTE.
- EXHIBIT P18 TRUE PHOTOSTAT COPY OF THE ADDITIONAL COMMISSION REPORT DT 09-11-2016, FILED BY ADV. DEEPU K.V.
- EXHIBIT P19 TRUE PHOTOCOPY OF THE OBJECTIONS DT 16-03-2017 FILED BY THE PETITIONERS TO THE ADDITIONAL COMMISSION REPORT BEFORE THE 1ST RESPONDENT.
- EXHIBIT P20 TRUE PHOTOCOPY OF THE PETITION DATED 16-03-2017 FILED BY THE PETITIONERS HEREIN REQUIRING DIRECTION TO INCLUDE THE HOUSES STATED THEREIN, WHICH THE ADVOCATE COMMISSIONER HAS AVOIDED REPORTING UNDER ILLEGAL PRESSURE FROM KSEB, AS FILED BEFORE 1ST RESPONDENT.
- EXHIBIT P21 TRUE PHOTOSTAT COPY OF THE INTERIM SUBMISSIONS DATED 19-07-2016, ALONG WITH THE THREE DOCUMENTS PRODUCED THEREWITH AS APPENDIX 1 TO 3.
- EXHIBIT P22 TRUE PHOTOSTAT COPY OF THE ARGUMENT NOTE DATED 04-08-2016 FILED BY THE PETITIONERS ALONG WITH THE ANNEXURES PRODUCED THEREWITH BEFORE THE 1ST RESPONDENT.




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- EXHIBIT P23 TRUE PHOTOCOPY OF THE ADDITIONAL SUBMISSIONS MADE BY THE PETITIONERS HEREIN IN THE HEARING ON 29-03-2017 ALONG WITH THE DOCUMENT APPENDED THERETO.
- EXHIBIT P24 TRUE PHOTOCOPY OF THE MEMO DATED 16-03-2017 FILED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT ALONG WITH THE COPY OF THE LETTER DT 05-12-2016 GIVEN BY THE ASST.ENGINEER, MINOR IRRIGATION SECTION, PARAVUR, TO THE 2ND PETITIONER SHOWING THE DETAILS OF THE CHERIAPILLI KUNDEKAVU CANAL.
- EXHIBIT P25 TRUE PHOTOCOPY OF A ROUGH SKETCH PREPARED DATED 21-08-2017 TO SHOW THE ROUTE THROUGH WHICH UNDER GROUND CABLE FOR THE 110KV LINE, FROM MANNAM SUB STATION TO TOWER POINT L15.
- EXHIBIT P26 TRUE PHOTOCOPY OF THE APPLICATION DATED 03-04-2017 UNDER THE RIGHT TO INFORMATION ACT FILED BY THE 3RD PETITIONER BEFORE THE CHIEF ELECTRICAL INSPECTOR.
- EXHIBIT P27 TRUE PHOTOCOPY OF THE REPLY DATED 19-04-2017 ISSUED BY THE PUBLIC INFORMATION OFFICER AND ELECTRICAL OFFICER TO THE 3RD PETITIONER.
- EXHIBIT P28 TRUE PHOTOCOPY OF THE RELEVANT REGULATIONS-REGULATIONS 86 TO 88 THE CENTRAL ELECTRICITY AUTHORITY (TECHNICAL STANDARDS FOR CONSTRUCTION OF ELECTRICAL PLANS AND ELECTRIC LINES) REGULATIONS 2010.
- EXHIBIT P29 TRUE PHOTOCOPY OF THE PETITION DATED 19-07-2016 FILED BY PETITIONERS BEFORE THE 1ST RESPONDENT SEEKING TO DIRECT THE KSEB TO FURNISH ANSWERS TO QUESTIONS RAISED.
- EXHIBIT P30 TRUE PHOTOCOPY OF IMPROPER COUNTER AND VAGUE ANSWERS GIVEN DT 28-07-2016 BY THE 2ND RESPONDENT TO EXT P29.



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- EXHIBIT P31 TRUE PHOTOCOPY OF THE ORDER 28-04-2017 IN PROCEEDING NO.K.DIS/13597/2011/M5 OF THE 1ST RESPONDENT.
- EXHIBIT P32 TRUE PHOTOCOPY OF THE NOTICE DT 17-05-2017 ISSUED BY THE COUNSEL FOR THE PETITIONERS HEREIN TO THE 1ST RESPONDENT REQUESTING FOR REPORT AND SKETCH REFERRED TO AS ITEM-10 IN EXT P31 ORDER, BY REGISTERED POST ON 18-05-2017 WITH THE POSTAL REGISTRATION RECEIPT AFFIXED THEREUPON.
- EXHIBIT P33 TRUE PHOTOCOPY OF THE LETTER DT 06-06-2017 ISSUED BY THE 1ST RESPONDENT ALONG WITH COPY OF A LETTER DT 24-12-2016 WITH A SKETCH SUBMITTED BY 2ND RESPONDENT TO 1ST RESPONDENT.
- EXHIBIT P34 TRUE PHOTOCOPY OF THE REPLY SEEN DT 12-04-2017 FILED BY THE 2ND RESPONDENT TO EXT P23 AND COPY TO PETITIONER'S COUNSEL HEREIN SENT BY REGISTERED POST ON 22-04-2017 ALONG WITH THE REGISTERED POST COVER.
- EXHIBIT P35 TRUE PHOTOCOPY OF THE OFFICE MEMORANDUM OF GOVERNMENT OF INDIA, MINISTRY OF POWER DATED 03/12/2014.
- EXHIBIT P36 TRUE PHOTOCOPY OF THE RELEVANT PORTION OF THE MALAYALA MANORAMA NEWS PAPER CUTTING, COCHIN EDITION, DATED 06/07/2018.
- EXHIBIT P37 TRUE PHOTOCOPY OF THE STATEMENT DATED 16/08/2017 BEARING REFERENCE NO.DB-20/17-18/183 FILED BY THE KSEBL BEFORE THE KERALA STATE HUMAN RIGHTS COMMISSION IN PROCEEDING NO.HRMP NO.6316/17/EKM AND HRMP NO.7618/17/EKM OF HARIHARAN PILLAI OF NANDHYATTUKUNNAM.




 M. A. BAIJU
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- EXHIBIT P38 TRUE PHOTOCOPY OF THE NOTICE DATED 15/01/2019 BEARING NO.AE/TCS/CHERAI/1819/60 ISSUED BY THE 2ND RESPONDENT KSEB TO THE 6TH PETITIONER IN THE WRIT PETITION AND RECEIVED BY HER ON 18/01/2019.
- RESPONDENT'S/S EXHIBITS:
- EXHIBIT R1 F
- EXHIBIT R2 (a) TRUE COPY OF THE COMMUNICATION NO.H.R.M.P.9/2010/E2 OF THE KERALA STATE HUMAN RIGHTS COMMUNICATION DATED 05/01/2010.
- EXHIBIT R2 (b) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 23/12/2013.
- EXHIBIT R2 (c) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 28/07/2016.
- EXHIBIT R2 (d) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 27/08/2016.
- EXHIBIT R2 (e) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 29/03/2017.
- EXHIBIT R2 (f) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 29/03/2017.
- EXHIBIT R2 (g) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 28/07/2016.
- EXHIBIT R2 (h) TRUE COPY OF THE REPLY/COMMENTS SUBMITTED BEFORE THE FIRST RESPONDENT DATED 27/08/2016.
- EXHIBIT R2 (i) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 12/04/2017.
- EXHIBIT R2 (j) TRUE COPY OF THE REPLY SUBMITTED BEFORE THE FIRST RESPONDENT DATED 29/03/2017.
- EXHIBIT R2 (k) TRUE COPY OF THE JUDGMENT IN WPC NO.17659/2016 DATED 20/05/2016.



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Chief Environmental Engineer

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EXHIBIT R2 (1)

TRUE COPY OF THE SKETCH WITH RESPECT TO THE ORIGINAL ROUTE, ALTERNATE ROUTE AND DEVIATED ROUTE IN TERMS OF EXT.P31.

True Copy

P.S to Judge

smp




M. A. BAIJU
Chief Environmental Engineer

APPENDIX OF WP(C) No.29175/2017PETITIONER'S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE APPLICATION SUBMITTED BY THE THIRD RESPONDENT BEFORE THE FIRST RESPONDENT DATED 22.2.2010.
- EXHIBIT P2 A TRUE COPY OF THE REPORT OF THE SECOND RESPONDENT DATED 11.11.2010.
- EXHIBIT P3 A TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT DATED 24.1.2011.
- EXHIBIT P4 A TRUE COPY OF THE JUDGMENT BY THIS HON'BLE COURT IN WP(C) NO.5259 OF 2011 DATED 15.2.2013.
- EXHIBIT P5 A TRUE COPY OF THE REPORT OF THE ADVOCATE COMMISSIONER OF DIFFERENT DATES.
- EXHIBIT P6 A TRUE COPY OF THE JUDGMENT DELIVERED BY THIS HON'BLE COURT IN W P (C) NO.16080 OF 2014 DATED 4.7.2014.
- EXHIBIT P7 A TRUE COPY OF THE APPLICATION SUBMITTED BY ONE K MATHAI AND REPLY HE GETS DATED 19.4.2017.
- EXHIBIT P8 A TRUE COPY OF THE NOTICE SERVED ON THE SECOND PETITIONER WITH HIS REQUEST AND SKETCH DATED 31.5.2017.
- EXHIBIT P9 A TRUE COPY OF THE WRIT PETITION FILED AS W P (C) NO.17659 OF 2016, DATED 17.5.2016 BEFORE THIS HON'BLE COURT.
- EXHIBIT P10 A TRUE COPY OF THE COMMUNICATION FROM THE OFFICE OF THE FIRST RESPONDENT DATED 6.6.2017 WITH ANNEXURES.
- EXHIBIT P11 A TRUE COPY OF THE SUBMISSION OF THE BOARD OFFICIALS DATED 9.9.2016 BEFORE THE FIRST RESPONDENT.



C
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Chief Environmental Engineer

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- EXHIBIT P12 A TRUE COPY OF THE ORDER OF THE FIRST RESPONDENT DATED 28.4.2017.
- EXHIBIT P13 A TRUE COPY OF THE ORDER PASSED BY THE FIRST RESPONDENT IN THE CASE OF THE SECOND PETITIONER DATED 7.7.2017 IN THE CASE OF THE SECOND PETITIONER.
- EXHIBIT P14 A TRUE COPY OF THE SKETCH PREPARED BY THE SECOND PETITIONER DATED 22.7.2017.

RESPONDENTS' EXHIBITS:

- EXHIBIT R3 (a) TRUE COPY OF THE JUDGMENT IN WPC NO.17659/2016 DATED 20/05/2016.

True Copy

P.S to Judge

smp




M. A. BAIJU
Chief Environmental Engineer

Speed-post**E. PRADEEPKUMAR IFS**

**Addl. Principal Chief Conservator of Forests
(F,L & R) & (Social Forestry),
Thiruvananthapuram**



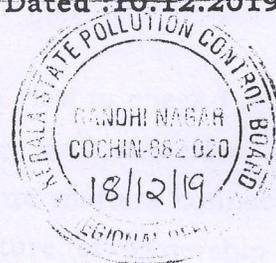
**Social Forestry Head office
Forest Headquarters,
Thiruvananthapuram
E-mail : pccf-sf.for@kerala.gov.in
Phone-0471-2325364,
Mob: 9447979018**

No. SW2-6680/19

Dated : 10.12.2019

To

The Chief Environment Engineer,
Kerala State Pollution Control Board,
Regional Office, Ernakulam



Sir,

Sub:- 'Santivanam' - O.A. No. 923/19 - National Green Tribunal - submission of action taken report- - reg.

Ref:- 1. Order no. OA no. 923/19 dated 01.11.2019.
2. Letter No. E3-1659/19 dated 06.12.2019 of ACF(SF), Ernakulam.

Attention is invited to the subject and reference. As per reference 2nd cited, Assistant Conservator of Forests (SF), Ernakulam reported that 'Santivanam' is a wooded area in and around a residential building situated at Kottuvally village of Paravur taluk. The area is a private land under the ownership of Smt. Meena Menon. The process of aligning power lines started way back in 2000 and for the same KSEB enlisted 48 trees which has to be felled /removed. But in field, felling of only 3 trees and lopping the branches/tops of certain trees were done. For the above, KSEB has paid compensation to the owner of the land. It is also reported that due to the above felling or lopping no casualty have occurred to the remaining standing trees or to the natural water bodies present in the area. The works of the tower line had completed and the same was commissioned on 29th June 2019 by KSEB. Assistant Conservator of Forests (SF), Ernakulam also reported that the vegetation of this area is predominantly evergreen with an average height of 14m with canopy closure in certain areas.

In layman's parlance, forest can be any area covered mainly with trees and undergrowth. However all such wooded areas cannot be technically considered as forest, unless the vegetation is 'unique' in the sense that area will be having its own climate, fauna & flora associated to this place. 'Santivanam' will not technically qualify as forest, but as a wooded area or at the best a managed sacred grove, however



M. A. BAIJU

Chief Environmental Engineer

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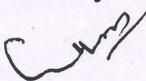
the ecological services rendered by the same cannot be discounted. It may be taken into account that, any area left undisturbed, will progress into wooded vegetation over a period of time.

In this regard, the judgment of the Honorable Supreme Court dated 12/12/1996 (Civil case No. 171/96) T. N. Godavarman Thirumulpad Vs Union of India & ORS may be noted

“The Forest Conservation Act, 1980 was enacted with a view to check further deforestation with ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and fore matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word:forest: must be understood according to its dictionary meaning. This description cover all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2 (i) of the Forest Conservation Act. The term “forest land”, occurring in Section 2, will not only include “forest” as understood in the dictionary sense, **but also any area recorded as forest in the Government record irrespective of the ownership.**”

In this regard, it is requested that the Hon'ble Tribunal may kindly look into this matter and issue suitable orders that deems fit to the situation.

Yours faithfully


Addl. Principal Chief Conservator of Forests
(Social Forestry) & (F, L & R),
Thiruvananthapuram




M. A. BAIJU
Chief Environmental Engineer