

(2009) 08 KL CK 0083

High Court Of Kerala

Case No: RP. No. 673 of 2009 (U)

Satellite Cable Network

APPELLANT

Vs

The Kerala State Electricity Board
and The Assistant Executive
Engineer

RESPONDENT

Date of Decision: Aug. 21, 2009

Hon'ble Judges: S.R. Bannurmath, C.J; A.K. Basheer, J

Bench: Division Bench

Advocate: V.M. Krishnakumar, for the Appellant; C.K. Karunakaran, SC, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.K. Basheer, J.

This Review Petition is directed against the judgment in O.P. No. 6265 of 1999, which was disposed of on August 29, 2008 thus:

Having gone through the petition averments and also the reliefs sought, we are of the opinion that nothing survives as of now for our consideration and decision. Therefore the Original Petition is disposed of as having become unnecessary.

2. When this Review petition is taken up today for consideration, we have perused the Judges' paper in CCC.No.153 of 2000 in O.P. No. 24973 of 1999, which was also disposed of on the same day.

3. In O.P. No. 6265/1999 and O.P. No. 24973/1999 the common petitioner (review petitioner) had a grievance that his application for permission to use the poles erected by the Kerala State Electricity Board to draw cable for the purpose of T.V.net work in Ayyanthole area was not being considered by the Board.

In O.P. No. 6265/1999 the following reliefs were sought:

- i) Issue a writ in the nature of mandamus commanding the respondents to consider and pass orders on Ext.P3 and until then not to remove the cable lines maintained by the petitioner in Ayyanthole Panchayat area.
- ii) Issue an interim direction to the respondents not to remove the cable lines maintained by the petitioner in Ayyanthole Panchayat area, until the disposal of Ext.P3 application.

This Original Petition was filed on march 9, 1999. No interim orders had been issued in the said Original Petition.

4. However it is seen from the records that in October 1999 petitioner preferred O.P. No. 24973 of 1999 with the following prayers:

- i) Issue a writ in the nature of mandamus commanding the respondent 1 and 2 to consider and pass order on Ext.P2 application with such time as may be fixed by this Hon'ble Court and until such time not to permit the 4th respondent to draw cables through poles in the area applied for in Ext.P2.
- ii) Issue an interim direction directing the 1st respondent to consider and pass order on Ext.P2 application within such time as may be fixed by this Hon'ble Court and until then not to permit any person to draw cables through poles in areas applied for in Ext.P2.

5. The above Original Petition was disposed of by this Court on October 7, 1999 with a direction to the Board to take a decision on Ext.P2 application submitted by the petitioner. It was further directed that the Board shall not permit respondent No. 4 to draw cable through the electric poles.

6. It may at once be noticed that Ext.P3 produced by the petitioner in O.P. No. 6265/99 is none other than Ext.P2 produced by him in O.P. No. 24973/99.

7. The story does not stop there. Petitioner filed Contempt of Court Case No. 153/2000 alleging that the Board had permitted respondent No. 4 in that Original Petition to draw cable through their poles in violation of the direction issued by this Court in the above judgment. The said Contempt Petition was also tagged on with O.P. No. 6265/99.

8. In the meanwhile, petitioner had produced the judgment in O.P. No. 24973/99 and prayed for an interim direction in O.P. No. 6265/1999 to the Board not to remove the cable drawn by him in Ayyanthole area. This Court on November 26, 1999 passed the following order:

Sri.S. Ramesh Babu, Standing Counsel for respondents takes notice. Till order as per Ext.P7 judgment is passed, cables of the petitioner shall not be removed.

9. Thus the petitioner had been enjoying the benefit of the above interim order till O.P. No. 6265/1999 and C.O.C.153/2000 came up for final hearing before the

Division Bench on August 29, 2008. On that day the Original Petition and the Contempt of Court Case were disposed of by the Division Bench.

10. In the Review Petition it is contended by the petitioner that the respondent/Board had not passed any order on Ext.P3 applications so far and therefore it cannot be said that the Original Petition had become unnecessary. It is further contended that petitioner was not aware of the dismissal of the Original Petition till he got a certified copy of the order in the Contempt of Court Case. It is stated so by the petitioner while explaining the delay of 289 days in filing the above review petition.

11. It may at once be noticed that the contention now raised by the review petitioner that the Board had not passed orders on Ext.P3 application cannot be true or tenable because the very same application was directed to be considered and decided by this Court in O.P. No. 24973/1999 which was produced and marked as Ext.P2 in that case. In C.O.C. No. 153/2000 petitioner did not have a case that the Board had not taken a decision on Ext.P2. His only grievance was that the Board had allowed respondent No. 4 to draw the cable in violation of the direction contained in the judgment. If in fact the Board had not taken a decision on his application, he would have definitely hauled up the Board for contempt. More importantly, he had managed to obtain an interim order in O.P. No. 6265/99 using the judgment in O.P. No. 24973/99.

12. At this stage learned Counsel for the petitioner seeks permission to withdraw the Review Petition. In our view, the prayer cannot be granted. The petitioner had not only abused the process of this Court but had also taken the Court for a ride, to say the least. We refrain from making any further observation in this regard.

13. Having regard to the entire facts and circumstances, the Review Petition is dismissed with costs of Rs. 50,000/- . Petitioner shall pay the cost to Kerala Mediation Centre attached to this Court within one month from today; failing which it shall be recovered in accordance with law.

14. We have carefully perused the grounds urged in the Review Petition. In our view the grounds raised by the petitioner are totally misconceived. The remedy of the petitioner lies elsewhere and not in a Review Petition.

Therefore the Review Petition is dismissed.