

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

MONDAY, THE 9TH DAY OF JANUARY 2023 / 19TH POUSHA, 1944

WP(C) NO. 186 OF 2023

PETITIONER:

RASHEEDA,
AGED 35 YEARS,
W/O. ABDUL SHABEER, POOKILATHU HOUSE, CHAVAKKAD TALUK,
THRISSUR DISTRICT, PIN - 680101

BY ADV
SRI.M.G.SREEJITH

RESPONDENTS:

- 1 KERALA STATE ELETRICITY BOARD LIMITED,
REPRESENTED BY SECRETARY, VYDHUDDHI BHAVANAM,
PATTAM, THIRUVANANTHAPURAM, PIN - 695004
- 2 THE EXECUTIVE ENGINEER,
KSEB CIRCLE OFFICE, KOTTAPPURAM ROAD,
CHAKKAMUKKU, THRISSUR, KERALA , PIN - 680667
- 3 THE ASSISTANT ENGINEER,
KSEB SECTION OFFICE, VENKIDANG,
THRISSUR DISTRICT, KERALA, PIN - 680510
- 4 ABDUL SHUKKOR,
IRIMBRANELLUR AMSOM AND DESOM,
CHAVAKKAD TALUK, THRISSUR DISTRICT, PIN - 680101

BY ADV.
SRI.B.PREMOD, SC, KSEBL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09.01.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Petitioner, wife of Mr.Abdul Shabeer stated to be resident of Pookilath House, Chavakkad Taluk, Thrissur District, is aggrieved of the notice Ext.P1 issued by the Kerala State Electricity Board Limited calling for an explanation to show the ownership of the property on receipt of the complaint submitted by one Mr.Pookilath Abdul Shukur.

2. The contention of the petitioner is that the alleged complainant had already filed a civil suit bearing O.S.No.1116 of 2016 pending before the Court of Munsiff at Chavakkad, wherein vide order dated 31.10.2016 an injunction has been granted in respect of schedule property B, a motorable way, till the final disposal of the suit. Since the said person is having an animosity and rancour against the petitioner's husband, who is his brother, submitted a malicious complaint to the Electricity department in respect of drawing a five hundred(500) meter wire to the borewell alleged to be

used illegally. It is contended that Electricity department without verifying the veracity of the complaint or the file of the electric connection allotted to the petitioner, called upon the petitioner vide communication dated 22.11.2022 Ext.P1 with the details of the ownership. A detailed reply Ext.P3 dated 01.12.2022 has been submitted on the ground that the complainant is the brother of first amongst them and the disputed property is in possession and title of the first among them and one Mr.Abdul Shemeer who is also a brother. It is a private pathway in the joint possession by virtue of the deed rather the complainant has encroached the property and civil dispute is pending. The allegations raised in the complaint were absolutely wrong. But the fact remains that the Electricity department could not have sent this impugned communication, once civil court is seized of the matter.

3. Issue notice before admission. Learned Standing Counsel for the Electricity Board accepts notice. No harm and prejudice will be caused if the

petitioner is give an opportunity of hearing in respect of the complaint and urged this Court for dismissal of the writ petition.

4. I have heard learned counsel for the parties and appraised the paper book.

5. In the civil suit aforementioned trial court vide order dated 31.10.2016 injuncted the defendants i.e., Mr.Abdul Shebeer, husband of the petitioner and petitioner in the following manner:

“8.Point No.2:- In view of the finding on point No.1 the petitioner/plaintiff is entitled to get an ad interim prohibitory injunction as prayed for.

In the result, the petition is allowed and the respondents or anybody under them are hereby restrained from obstructing the user of the plaint B schedule motorable way by the petitioner/plaintiff in any manner till the final disposal of the suit.”

6. Once the civil suit is pending there was no occasion for the respondents to lodge a complaint as an act of disgruntlement. The contents of the notice dated 22.11.2022 Ext.P1 of the Assistant Engineer Electrical Section calling the explanation regarding the ownership

of the land of the petitioner's husband is as under:

"Kerala State Electricity Board Limited

(Incorporated under the Indian Companies Act,
1956)

Reg.Office Vidyesh Bhawanam, Pattam,
Thiruvananthapuram-695004

Web site:www.kseb.in.CIN:U40100KL2011SGC027424

Office of Assistant Engineer Electrical Section
Venkitang,

Pin:680510 AE.CUG No.9496009722

Office Phone:0487-2263426,94969496

email address:-aevktg@gmail.com

PB-2022-23/Venkitang/92 Date:22.11.22

From

Assistant Engineer

Electrical Section

Venkitang

Recipient

Beevathu

Pakakillath(H)

Enamikkal

Sir,

Subject: Complaint given by Abdul Shukur

Pokakillat-

According to the complaint given by
Mr.Pokakillat Abdul Shukur, 500mtr wire has

been drawn from your house to the borewell and is being used illegally. Therefore, it is necessary to know the ownership of the above mentioned place. If you have any clarification on the above matter, It must be communicated in writing within 7 days of receipt of this letter, Otherwise legal action will be taken.

Yours sincerely

Assistant Engineer Electrical Section
(Seal and Sd/-)

Venkitangu”

I am of the view that the said notice is wholly uncalled for and arbitrary much less illegal and without jurisdiction. Electricity department has no business to check the veracity of the ownership. Once the matter is pending before the civil court, Electricity Department should be circumspect in entertaining the complaint until and unless there is gross violation of provisions of the Act. The impugned notice Ext.P1 is wholly aberrative, without jurisdiction and illegal, hereby quashed. Writ petition stands allowed.

**Sd/ -
AMIT RAWAL
JUDGE**

APPENDIX OF WP(C) 186/2023

PETITIONER EXHIBITS

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| Exhibit-P1 | TRUE COPY OF NOTICE DATED 22/11/2022 ISSUED BY THE 3RD RESPONDENT |
| Exhibit-P1(a) | ENGLISH TRANSLATION OF EXT-P1 |
| Exhibit-P2 | TRUE COPY OF ORDER DATED 31-10-2016 IN IA NO. 3970/2016 IN / OS NO 1116/2016 IN THE FILES OF MUNSIFF COURT, CHAVAKKAD |
| Exhibit-P3 | TRUE COPY OF REPLY LETTER DATED 01- 12-2022 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT |