

IN THE COURT OF ADDL.DISTRICT JUDGE-II (SPECIAL) KOTTAYAM

Present : Sri. Subash.S, Addl. District Judge-II (Special), Kottayam

Monday, the 9th day of February 2026
20th day of Magha , 1947

I.A No.4/2025 in OP(Electricity) No.29/2024

Petitioner/Respondent:-

The Power Grid Corporation of India Ltd.,
400/200 KV Station, Pallikkara,
Kumarapuram P.O, Kochi, represented by
its Deputy General Manager.

By Adv. A.Basheer.

Respondent/Petitioner.:-

Ms. Anupriya.S, Aged 33 years,
D/o.P.B.Surendran, residing at
Anusadanam, Kulathoorprayar.P.O,
Kagazha, Kottayam, 686541.

By Adv. K.Radhamani and Adv. Silpa Sutheesan.

This petition filed Under Order I, Rule 2 of the Code of Civil Procedure.

This petition having been finally heard on 14.01.2026 and the court on 09.02.2026 passed the following the following:-

ORDER

This is an application filed by the respondent under O.1 Rule 10(2) of the Code of Civil Procedure.

2. The averments in the petition in brief are as follows:

The original petition has been filed against the

respondent, Power Grid Corporation of India Ltd., under Section 16(3) of the Indian Telegraph Act, seeking enhancement of compensation. The respondent filed this application to implead Kerala State Electricity Board Ltd. (KSEB), Vydhyuthi Bhavan, Thiruvananthapuram, represented by its Chairman and Managing Director; and the Chief Secretary, Government of Kerala, Secretariat, Thiruvananthapuram as additional respondents. According to the respondent, the liability and responsibility for pay compensation as per G.O. (MS) No.29/2015/PD dated 30.07.2015 (read with G.O.(MS) No.19/2016/Power dated 31.08.2016 and G.O.(MS) No.25/2016/Power dated 05.12.2016) are apportioned among Power Grid, Kerala Government and KSEB Ltd. Accordingly, 85% of compensation payments under clause 19(1)(ii)(a) and 19(I)(ii)(b) of G.O.(MS) No.29/2015/PD dated 30.07.2015 (read with G.O.(MS) No.19/2016/Power dated 31.08.2016 and G.O.(MS) No.25/2016/Power dated 05.12.2016) is to be paid by Power Grid Corporation of India Ltd. and the remaining 15% by the Kerala Government/KSEB; for ex-gratia payments under clause 19(1)(ii)(c) of G.O., 15% is

to be paid by PGCL and the balance by the Kerala Government/KSEB. The Kerala Government/KSEB bears full responsibility for compensation under clause 19(I)(iv) as per the G.O., and the compensation of ₹1,00,000/- for damages to residential buildings is also to be paid by Government of Kerala/KSEB. So, the liability to pay additional compensation should be in accordance with proportional sharing outlined in the G.O.(MS) No.29/2015//PD dated 30.07.2015 (read with G.O.(MS) No.19/2016/Power dated 31.08.2016 and G.O.(MS) No.25/2016/Power dated 05.12.2016). However, the petitioner has not impleaded the Government of Kerala and KSEB as the respondents. In order to adjudicate the claim and to fasten the liability of all the stakeholders as mentioned above, the KSEB and the Government of Kerala are necessary parties in the above case. If the KSEB and Government of Kerala are not made respondents in the original petition, the court may not be able to effectively and completely adjudicate upon and direct them to pay compensation as per their share of liabilities as mentioned in the above G.O. In the circumstances, the respondent has filed a petition to implead KSEB and

Government of Kerala as respondents in the original petition.

3. The petitioner has not filed any objection to the above application.

4. Heard both sides.

5. The point that arise for consideration is as follows:

Is the petition allowable?

6. **The Point**:- The respondent in an application filed under section 16(3) of the Indian Telegraph Act has filed this application to implead additional respondents. In this context, it is useful to refer to section 164 of the Electricity Act, 2003 and section 10 of the Indian Telegraph Act.

7. Section 164 reads as follows;

“The appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), any of the powers which the telegraph authority

possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.”

8. In exercise of the powers under section 164 of the Electricity Act, 2003, the appropriate government has conferred the powers of Telegraph Authority vide notification dated December 24 2008, exercisable under the Indian Telegraph Act, 1885, upon the Power Grid Corporation of India Ltd. In this context, it is useful to refer to the judgment of the Hon’ble Apex Court in Power Grid Corporation of India Limited v Century Textiles and Industries Limited and Others (2017 SCC (5) 143). In the said case the Hon’ble Apex Court observed as follows:

“ It is not in dispute that in exercise of powers under the aforesaid provision, the Appropriate Government has conferred the powers of Telegraph Authority vide notification dated December 24, 2003 exercisable under Indian Telegraph Act, 1885 upon the Power Grid. It may also be mentioned that a Central Transmission Utility (CTU) is a deemed licensee under the second proviso to S.14 of the Electricity Act, 2003. Power Grid is a Central Transmission Utility and is, therefore, a deemed licensee under the Electricity Act, 2003. This coupled with the fact that Power Grid is treated as

Authority under the Indian Telegraph Act, 1885, it acquires all such powers which are vested in a Telegraph Authority under the provisions of the Indian Telegraph Act, 1885, including the power to eliminate any obstruction in the laying down of power transmission lines. As per the provisions of the Indian Telegraph Act, 1885, unobstructed access to lay down telegraph and/or electricity transmission lines is an imperative in the larger public interest. Electrification of villages all over the country and availability of telegraph lines are the most essential requirements for the growth and development of any country, economy and the well-being/progress of the citizens. The legislature has not permitted any kind of impediment/obstruction in achieving this objective, and through the scheme of the Indian Telegraph Act, 1885, empowering the licensee to lay telegraph lines, applied the same, as it is, for laying down the electricity transmission lines. Powers of the Telegraph Authority conferred by S.10, S.15 and S.16 of the Indian Telegraph Act, 1885, stand vested in and are enjoyed by the Power Grid.

9. Section 10 of the Indian Telegraph Act reads as follows;

“The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property:

Provided that,

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by

the Central Government, or to be so established or maintained;

(b) the Central Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

10. Section 10 of the Indian Telegraph Act, 1885, empowers the telegraph authority to place and maintain a telegraph line across an immovable property. By virtue of section 10 (d) of the Indian Telegraph Act, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that required to in clause (c) shall pay full compensation to all persons interested or any damages sustained by them by

reason of the exercise of those powers. By virtue of section 16(3) of the Telegraph Act, if any dispute arises concerning the sufficiency of the compensation to be paid under section 10(d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

11. Admittedly, Power Grid Corporation Ltd. has been conferred with the powers of Telegraph Authority, and in exercise of its powers, it placed electric lines across the property of the original petitioner. So, PGCIL shall pay full compensation to the original petitioner for any damages sustained by him by reason of the drawing of electric lines across his property, and if the petitioner has any dispute regarding the sufficiency of compensation, he is entitled to file an application before the District judge having jurisdiction for enhancement of compensation from PGCIL.

12. According to the respondent herein, the Government of Kerala and KSEB are necessary parties in the original petition. Per contra, the learned counsel appearing for the petitioner submitted that as the liability to pay compensation

stands vested with the Power Grid Corporation of India Ltd, the petitioner has the right to file an application under S.16(3) of the Telegraph Act against PGCIL for enhancement of compensation and hence, the other parties cannot be considered as necessary parties in this case. In this context, it is useful to refer to the judgment of the Hon'ble Apex Court in *Kanaklata Das And Others v. Naba Kumar Das And Others* (2018(2) SCC 352). In the said case, the Hon'ble Apex Court observed as follows;

“....the plaintiff, being a dominus litis, cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish, unless such person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively. In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit.

..... a necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for

a complete and final decision on the question involved in the proceeding.”

13. In the present case, the above original petition has been filed u/s 16(3) of the Indian Telegraph Act, for additional compensation for the damages sustained by the petitioner due to the placement of electric line by the respondent across her property. By virtue of S.10(d) of the said Act, the respondent shall pay full compensation. As the petitioner has approached this court as per S.16(3) of the above Act, for enhancement of compensation, the short question to be considered in this proceedings is whether the compensation already awarded by the respondent is adequate, and if the court finds that the compensation awarded is not adequate, the court can direct the respondent to pay additional compensation to the petitioner as fixed by the court. Therefore, KSEB and Government of Kerala cannot be considered as necessary parties in the original petition, and the original petitioner cannot be directed to take steps to implead the other parties as additional respondents in this petition. Even though the Government of Kerala and KSEB are not made parties in the original petition, an effective order can be passed, and the

presence of those parties is not necessary for a complete and final adjudication on the short question involved in the proceedings. So, the petition filed by the respondent is liable to be dismissed.

Accordingly, this petition is dismissed.

Dictated to the Confdl. Asst. transcribed and typed by her, corrected and pronounced by me in open court on this the 9th day of February, 2026.

Sd/-
Subash. S
Addl. District Judge-II (Spl.),
Kottayam.

APPENDIX: NIL.

Id/-
Addl. District Judge -II (Spl.),
Kottayam

Copied by:
Compared by:

//True Copy//

Sd/-
Subash. S
Addl. District Judge-II (Spl.),
Kottayam.