

O R D E R

These petitioners claim to be the owners of certain lands in Anaviratti village. The first respondent entered into a contract with the third respondent to construct a Mini Hydro Electric Plant. In that connection, the first respondent started excavating a tunnel, passing through the lands of the petitioner. The petitioners were aggrieved because such tunnel excavation beneath the surface of their lands was without resorting to any land acquisition and without payment of any compensation. Therefore, they approached the Civil Court. The trial court granted a temporary injunction and the first appellate court affirmed the said injunction by dismissing the appeal of the first respondent. However, the writ petition filed by the first respondent before the Kerala High Court was allowed by the order dated 16.10.2008. The High Court allowed the construction of the tunnel, noting that the tunnel was needed in public interest, but subject

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to an undertaking by the District Collector to acquire the land and to pay compensation. It also recorded the consent of the petitioners' counsel that he has no objection for such a course. The petitioners filed a review petition alleging that their counsel has not given any consent or no-objection. The review petition was dismissed on 22.1.2009. The said orders of the High Court are challenged in these special leave petitions.

2. When the matter came up today, learned counsel for the petitioners submitted that during the pendency of these petitions, the lands of the petitioners were acquired for the purpose of the excavation of the tunnel, vide preliminary notification dated 5.8.2009 and final notification 14.8.2009 and the tunnel work has now been

completed. The learned counsel for the first respondent states that in view of the above, even the suits filed by the petitioners, out of which these matters arise, were dismissed in September, 2010.

3. In view of the above, these special leave petitions are disposed of as having become infructuous.

4. Learned counsel for the petitioners submitted that as the tunnel is completed, the surface of the land is not required by the respondents and therefore the lands may be released to them so that they can continue to enjoy the surface benefits of the land. It is always open to the petitioners to give appropriate application in that behalf and the concerned authority may deal with it in the manner it deems fit.

.....J.
[R.V. RAVEENDRAN]

NEW DELHI
FEBRUARY 25, 2011

.....J.
[A.K. PATNAIK]