

1969

Present: de Kretzer, J.

In re THE ACTING GENERAL MANAGER, ELECTRICAL UNDERTAKINGS, COLOMBO, Petitioner

S. C. 289/69—Application regarding C. R. Tangalle, 19198

Electricity Act (Cap. 205)—Section 17 (3) (a)—Compensation payable thereunder to the owner of a land—Ownership of the land unknown—Mode and effect of paying the compensation.

Where the ownership of a land is unknown and the Government Agent decides the amount of compensation payable in respect of such land in terms of section 15 or section 16 of the Electricity Act, the duty of the licensee according to section 17 (3) (a) of the Act is to pay the money into Court by means of a Deposit Note. Once the licensee deposits the money in Court he is functus as far as the compensation is concerned; he is not in the position of a plaintiff in a case.

APPPLICATION in respect of two orders of the Court of Requests, Tangalle.

Mervyn Fernando, Senior Crown Counsel, for the petitioner.

Cur. adv. vult.

November 17, 1969. DE KRETZER, J.—

The Law set out in Section 17 (3) (a) of the Electricity Act Cap. 205 of Vol. 7 of the L.E. directs what the Licensee has to do with the Compensation, the G. A. decides is payable in terms of Sections 15 and 16 where the owner is unknown or where the ownership of the land is subject to dispute.

He is required—

- (1) to pay that Compensation into Court to be drawn from Court by the owner of the land.
- (2) to give the occupier of the land written notice of the payment of the Compensation into the Court, or if there is no occupier to exhibit that Notice in some conspicuous position on that land.

Once he complies with (1) and (2) he is functus as far as that Compensation is concerned.

The Order of the learned Judge dated 25.5.67 and the Order of 12.3.69 which maintains that the Order made on 25.5.67 was not made *per incuriam* are apparently based on the mistaken notion that the Licensee who pays the money into Court is in the position of a Plaintiff in a Case.

If he had read the relevant section with that degree of care that I expect of him he would have observed that the Act provides for the deposit of Compensation in the Case where the owner of the land is unknown he should then have realised that his suggestion, that the correct procedure to be followed by the Licensee is the filing of an interpleader action, would not bear examination. He would also have observed the other pointer to the fact that the Legislation could not possibly have the filing of an action by the Licensee in contemplation for the Legislature orders notice of the payment of Compensation into Court.

The only way in which money can be paid into Court is by the use of a Deposit Note. The person applying for a Deposit Note has to state the purpose for which he requires it so that the Court issuing the Deposit Note has the necessary information to record in its Registers for the purpose of tracing what happened to the money in Deposit. In the instant Case it may be that the use of a Caption, normally used when a Plaintiff is filed, to record the details of the Deposit might have played its part in making the Judge think there was a Plaintiff in the Case. It would have been wiser I think to record the Caption as follows:—

No. 19198. In the matter of the deposit of Compensation under Section 17 ss 3 of the Electricity Act No. 19 of 1950 in respect of the land known as Nagalmullagewatte.

Be that as it may once Compensation is deposited in Court it will lie there until the person or persons who claim to be entitled to it file their statements of Claim in Court, prove them and obtain Payment Orders from the Court. Nothing could be simpler than this simplest of procedures which I find has been in use in every Court of this Island in which deposits of money are made in similar circumstances.

It is a matter of regret that the mistaken view that some other procedure had to be followed has resulted in the long delay in those entitled to compensation being able to obtain payment. I set aside the Orders of the learned Judge and direct him to entertain and adjudicate on the Claims that have been filed or will be filed in respect of the money that has been paid in to Court.

Orders set aside.