

**HIGH COURT OF TRIPURA
AGARTALA
CRP No.64 of 2023**

1. Sri Rajat Kanti Dey, S/O. Late Rakesh Ranjan Dey, resident of Village-Laxmipur Para, G.P. & P.O.-Masauli, P.S.-Fatikroy, Sub-Division-Kumarghat, District-Unakoti Tripura.
2. Smt. Chaya Rani Dey, W/O. Late Rakesh Ranjan Dey, resident of Village-Laxmipur Para, G.P. & P.O.-Masauli, P.S.-Fatikroy, Sub-Division-Kumarghat, District-Unakoti Tripura.
3. Sri Rathindra Kr. Dey, S/O. Late Rakesh Ranjan Dey, resident of Vill. & P.O.-Moirani, District-Jorhat, Assam.
4. Smt. Indrani Dey, D/O. Late Rakesh Ranjan Dey, W/O. Ajit Deb, resident of Krishnanagar, Lake Chowmuhani, P.O.-Agartala, District-West Tripura.
(Petitioner No.1 is the lawful attorney of Petitioner Nos.2, 3 & 4).

..... Petitioner(s).

V E R S U S

1. NER-II Transmission Limited, registered office at C/O. Tripura Furniture, 2nd Floor, Math Chowmuhani, Opposite Iskon Temple, Agartala-799001, District-West Tripura represented by its DGM & Project Head Sri Narottam Chakraborty.
2. The Deputy General Manager, Transmission Division, Tripura State Electricity Corporation Limited (A Govt. of Tripura Enterprise), Kumarghat, Unakoti Tripura.
3. The DM & Collector, Office of the District Magistrate & Collector, Unakoti District, Kailashahar.

..... Opposite Party-Respondent(s).

For Petitioner(s)	: Mr. Kundan Pandey, Advocate.
For Respondent(s)	: Mr. Koushik Datta, Advocate, Mr. Kushal Deb, Advocate, Mr. Samrat Sarkar, Advocate.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

CAV reserved on : **21.11.2025.**

Judgment delivered on : **17.12.2025.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

Heard Mr. Kundan Pandey, counsel appearing for the petitioners
and Mr. Koushik Datta, counsel appearing for the respondents.

2. This Revision is filed under Article 227 of the Constitution of India challenging the judgment dt.30.06.2023 in Civil Misc.(Telegraph) No. 01 of 2021 passed by the District Judge, Unakoti District, Kailashahar.

The background facts:

3. The petitioners are owners and possessors of the subject land. They had filed the said case under Section 8 of the Indian Telegraph Act, 1885 seeking compensation of Rs.14,10,550/- towards damages to trees and crops and Rs.40,00,000/- for damage to land measuring 4(four) kani with interest @ 12% per annum from the respondents who had laid a 132 KV LILO (AMB-PK Bari) Transmission Line NER-II over their land which is described in the schedule to the said application.

4. They contended that in the said land there were trees bearing lemons, bamboo, drumstick, paddy, betel nut, banana, coconut, mango, beans, gourd, kathal (jackfruit), Shimul, blackberry, Teak etc.

5. According to them, they received notices on 30.07.2020 and 08.11.2020 from the NER-II Transmission Limited (respondent No.1) under the Indian Telegraph Act, 1885 informing them that a proposed 132 KV line would be run through their land and under the process trees belonging to them and standing on the land would require clearance, and so would be cut and they would compensate the petitioners for the loss and value of the land and trees and construction as assessed by the Revenue Department of the State Government.

6. They contended that without any assessment and inquiry by the Revenue Department, the respondents forcefully cut the above mentioned trees; land also was affected by way of earth filling, by a conductor line, by

using vehicle/transportation and by erecting a leg of a tower in the land and about 4(four) kani of land was damaged and the said land cannot then be utilized in future for any purpose.

7. They contended that on 11.08.2020 they approached the Sub-Divisional Magistrate, Kumarghat, Unakoti Tripura for necessary assessment of damage and on 12.10.2020 the Revenue Inspector attached to the said office assessed the yield component of the trees, vegetables and plants, which was inadequate and not proper.

8. They contended that these lands are their only source of income and they have been permanently damaged by the respondents and they have been deprived of present and future earning from the trees on the land.

9. They contended that the respondents paid meager compensation on the basis of an assessment of damage and loss made by the Tehshildar, Kanchanbari T.K., Revenue Inspector attached to the office of the Sub-Divisional Magistrate, Kumarghat and Deputy General Manager, Transmission Division, Kumarghat, which was not satisfactory and adequate.

10. Counter affidavit was filed by the respondents disputing the above allegations.

11. It was contended that the respondent No.1 is an Authorized Person/Licensee under the Electricity Act, 2003 granted to it by the Government of India, Ministry of Power for placing the electric line for transmission of electricity and is entitled to invoke the provisions of the Indian Telegraph Act, 1885.

12. The respondents denied that they had deprived use of 4(four) kanis of land of the petitioners though they admitted that the main electric line had gone through their land. They denied that:

- (a) the land had become totally damaged and that the compensation awarded was inadequate;
- (b) that the land was affected in any way by earth filling or by placing a conductor line or by using vehicle/transportation or by posting of leg of the tower and affected by alignment of wire.
- (c) that the assessment of damage and loss made by the Revenue Officials was not adequate and proper.

They also contended that there is no provision in the Indian Telegraph Act, 1885 for payment of compensation for the land and that petitioners are entitled only to damages to the property under Section 10(b) of the Indian Telegraph Act, 1885. They also contended that they are only liable to pay compensation for damages to the surface and cost to the existing standing properties only and not for any future loss etc.

13. The Trial Court framed the following issues:

- (i) Whether the instant suit is maintainable in its present form and nature?
- (ii) Whether there is cause of action to file the instant case?
- (iii) Whether 4 kani of land of the petitioner became damaged due to transmission of electric line over the land?
- (iv) Whether the petitioners are entitled to get compensation under Indian Telegraph Act, 1885?

(v) Whether the petitioners are entitled to get any other relief/ reliefs?

14. Both parties examined witnesses and marked documents.

The judgment of the trial Court:

15. The trial Court in its judgment dt.30.06.2023 denied compensation for the land allegedly utilized by the respondents for laying the leg of the tower in it . It also held that compensation given to the petitioners for the damage to the trees and crops was just and they are not entitled to any additional compensation for trees and crops which are allegedly damaged because of laying of the Transmission Line.

16. It held that the petitioners could not prove by adducing any cogent documentary evidence that they are entitled to more compensation for the trees and crops beyond the rate which was given to them by the opposite parties. It also held that the petitioners had filed some vague papers showing existence of some trees over their land but they are not concrete and it cannot be inferred that there were more trees or crops beyond what was listed by the Revenue Authorities and for which compensation was given.

17. Challenging the same, this Revision is filed.

18. The counsel for the petitioners contended that the judgment of the Court below is perverse and suffers from illegality and material irregularity *inasmuch* as though 5(five) issues have been framed, but no findings have been recorded on all the issues framed. It is contended that the finding of the trial Court that no compensation can be given for land under the Indian Telegraph Act is not correct in view of the guidelines dt.15.10.2015 issued by the Ministry of Power, Government of India and the Government of Tripura

regarding compensation towards damages in regard to the Right of Way for transmission lines. They contended that as per the said guidelines, they are entitled to receive 100% of the land value for the tower base area (between the four legs) impacted severely due to installation of tower/pylon structure.

19. They contended that the trial Court did not consider the question as to whether the land of the petitioners had been rendered useless on account of the installation of the electric tower and laying of transmission lines to the extent of 4(four) kani, i.e. 1.6 acres.

20. They also contended that in Exhibit-P/7, the Revenue Inspector, Kumarghat Revenue Circle, in his Assessment Report, specifically stated that their land was affected by earth filling, by conductor line, by using of vehicle/transportation, and also affected by posting of four legs of the tower over the land of the petitioners, but the trial Court had not considered the same.

21. Counsel for the petitioners also relied on the judgment dt.09.09.2025 of Division Bench of this Court in ***CRP No.32 of 2023*** titled ***"North East Transmission Company Ltd. v. Khalek Mia & another"***, wherein the Division Bench held that where the land owner is deprived of use of land by laying of a transmission line, the respondents are bound to compensate him/her under Article 300A of the Constitution of India and that a person cannot be deprived of the use of property unless the same is acquired and compensation is paid for the land which he is deprived of use.

22. Counsel for the respondents refuted the said contentions and supported the judgment of the trial Court.

Consideration by the Court:

23. I have noted the submissions of both sides.

24. The record reveals that the Revenue Inspector, Kumarghat submitted Exhibit-P/7, Assessment Report, clearly mentioning that there was certain portion of the land affected by earth filling, for using vehicle/ transportation and also affected by posting of four legs of the tower over the land of the petitioners. Details of the number of trees of different types existing on the land was also mentioned in the said report.

25. The petitioners have filed Exhibit-P/13 consisting of two documents dated 07.08.2020 and also 16.07.2020 indicating the number of trees existing on their land which is signed by a family member of the petitioners as well as M/S. Sterlite Power, which was the Agency employed by the respondents to execute the work in the subject land of the petitioners.

26. There are also Exhibits-F, H and J, notices issued by the Tripura State Electricity Corporation Limited to the petitioners on 30.07.2020, 08.11.2020 and 30.12.2020 respectively mentioning the trees which are likely to be damaged apart from location of the legs of the tower. These three documents have been marked by the respondents.

27. No doubt, Exhibits-G, I and K filed by the respondents indicate the calculation made for determining the compensation for the trees. On what basis the rate for the trees has been arrived at, is not mentioned anywhere by the Revenue Inspector therein, who is supposed to have made the calculation of the compensation payable for the trees which are destroyed. The said official has also not been examined by the respondents to justify that there was some rational basis for fixing a particular rate for a particular type of tree.

28. The only witness examined on behalf of the respondents is an official, i.e. Deputy General Manager, Transmission Division, Kumarghat, who merely stated that the Revenue Inspector attached to the Office of the Sub-Divisional Magistrate, Kumarghat had assessed the compensation for the trees/crops after physical verification. Though he stated that the compensation was awarded as per the Government approved rate, no document is marked by the said witness as to how the said rate was arrived at.

29. It is for the respondents to show that there was rational basis for the compensation calculated and paid to the petitioners, but they failed to do so. It is unfortunate that such a casual approach is adopted by respondents in the matter of determination of compensation for tree and crop loss.

30. Unfortunately, the trial Court did not consider these documents and aspects and proceeded to mechanically confirm the action of the respondents. Thus it has failed to exercise the jurisdiction vested in it which has caused miscarriage of justice.

31. Also Exhibits-P/7, P/13 and Exhibit-H undoubtedly show that an approach road was laid on the land of the petitioners and four legs of a tower were fixed on the land of the petitioners. Exhibit-P/7 even shows that there was earth filling on a portion of the land of the petitioners and some portion is affected by a conductor line, by using a vehicle/transportation and also by positioning four legs of a tower. It cannot be denied that if there is earth filling in fertile land on which fruit bearing trees, crops etc. grow, the said area cannot be utilized for cultivation purposes.

32. The petitioners had placed reliance in this revision on Annexure-8 dt.15.10.2015 issued by the Government of India, Ministry of

Power, New Delhi laying down guidelines for payment of compensation towards damages in regard to Right of Way for transmission lines. The said guidelines referred to meeting of a High Level Committee constituted by senior bureaucrats of the Power Ministry and in paragraph-4, the following recommendations have been made:

"The GoI may issue following guidelines for determining the compensation payable towards "damages" as stipulated in Indian Telegraph Act which will be in addition to the compensation towards normal crop and tree damages. This amount will be payable only for transmission Lines of 66 kV and above, and not for sub-transmission and distribution lines below 66 kV:

- i. Compensation @ 85% of land value as determined by District Magistrate or any other authority based on Circle rate/Guideline value/Stamp Act rates for tower base area (between four legs) impacted severely due to installation of tower/pylon structure;
- ii. Compensation towards diminution of land value in the width of RoW Corridor due to laying of transmission line and imposing certain restriction would be decided by the States as per categorization/type of land in different places of States, subject to a maximum of 15% of land value as determined based on Circle rate/Guideline value/Stamp Act rates;
- iii. *In areas where land owner/owners have been offered/accepted alternate mode of compensation by concerned*

corporation/Municipality under Transfer Development Rights (TDR) policy of State, the licensee/Utility shall deposit compensation amount as per (i) & (ii) above with the concerned Corporation/Municipality/Local Body or the State Government.

iv. For this purpose, the width of RoW corridor shall not be more than that prescribed in para 1.3 above, and shall not be less than the width directly below the conductors."

33. The State of Tripura had also issued a notification on 02.06.2023 (filed as Annexure-9 in the Revision) stating that it has not adopted the guidelines framed by the Ministry of Power, Government of India but has framed its own guidelines. These guidelines provide for enhanced compensation of full land value to the land owner/owners for tower base area (between four legs) impacted severely due to installation of tower/pylon structure along with damage cost of trees/crops/structure, if any, in case of Jote land.

34. Suppressing the above guidelines which have to be followed by the respondents, the respondents have taken the untenable plea that they need not pay any compensation for deprivation of use of land to the petitioners because they are invoking the Indian Telegraph Act, 1885 provisions. Thus grave injustice has been caused to petitioners.

35. In the judgment dt.9.9.2025 in **CRP No.32 of 2023** titled "**North East Transmission Company Ltd. v. Khalek Mia & another**", this Court had also taken the view that the respondents have to pay compensation to landowner for deprivation of land use.

36. In this view of the matter, I am of the opinion that both parties should have an opportunity to place on record evidence as to the extent of land for which compensation is payable as per the guidelines issued by the Government of Tripura in Annexure-9 on 02.06.2023 and also for proving the value of the trees cut as on the date when the transmission line was laid through the land of the petitioners between July, 2020 and November, 2020. This is necessary because the trial Court has simply accepted blindly the assessment made by the Revenue Authorities of the compensation assessed by them as regards the trees which have been cut, even though the respondents have not been able to place any material on record on the basis of which the said assessment was made by the Revenue Officials.

37. Undoubtedly, the Horticulture Department of the State would have experts who can assess the value of the fruit bearing trees etc. and if such persons are examined, it would help in proper determination of compensation payable to the petitioners and the fact that the petitioners could not adduce such evidence cannot be put against the petitioners. Also denial of land compensation by the respondents cannot be countenanced in view of the guidelines of the Ministry of Power, Government of India, as modified by the Government of Tripura as mentioned above.

38. In this view of the matter, the Revision is allowed. The impugned judgment dt.30.06.2023 of the District Judge, Unakoti District, Kailashahar in Civil Misc.(Telegraph) No.01 of 2021 is set aside and the matter is remitted back to the said Court. Both parties are permitted to adduce evidence on the above aspects and the Court below shall thereafter proceed to decide the said

matter in accordance with law. This exercise shall be completed by **30.06.2026**. No costs.

Pending application(s), if any, also stands disposed of.

(M.S. RAMACHANDRA RAO, CJ)

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