

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3779/2016

Sanjay Shamrao Matikhave and another
...Versus...
Power Grid Corporation of India Ltd., through its Chief Manager (TLC),
Nagpur - 440026

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Rahul Dhande, Advocate for petitioners
Shri D.M. Kale, Advocate for respondent

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.
DATE : 18.07.2016

By this writ petition, the petitioners challenge the order of the District Magistrate, dated 31.3.2016 being illegal and arbitrary. The petitioners seek a declaration that the petitioners are entitled to full compensation for the loss or damage, that would be caused to the petitioners due to the laying of the transmission line over the field of the petitioners.

Shri Dhande, the learned Counsel for the petitioners submitted that the respondent had filed an application before the District Magistrate against the petitioner no.1, who is the owner of the field survey no.171/1, for permission to lay the transmission line. It is stated that though there is no order of the District Magistrate under Section 16 of the Indian Telegraph Act, permitting the respondent to lay the transmission line over the

field Survey No.171/2, the respondent has continued the work of laying the transmission line over field Survey No.171/2 also. It is stated that both the petitioners would be entitled to compensation for the loss, that would be caused to the petitioners due to the laying of the transmission lines. The learned Counsel has relied on a judgment of the Kerala High Court, reported in **AIR 1972 Kerala 47** to canvass that without an order of the District Magistrate under Section 16 of the Act, the transmission lines cannot be laid.

Shri Kale, the learned Counsel for the respondent has supported the action of the respondent. It is stated that initially when the transmission lines were being laid, the petitioners informed the respondent that they were affecting only field Survey No.171/1 and hence, an application was made before the District Magistrate under Section 16 of the Act against the petitioner no.1 only. It is stated that in view of the wrongful information that was received by the respondent, the proceedings were filed against the petitioner no.2 at the relevant time. It is stated that if the petitioners were aggrieved by the action of the respondent, they could have filed appropriate proceedings. It is further stated, by placing reliance on the judgment of the Division Bench of this Court, dated 3.8.2015 in Writ Petition No.2538/2011 that it would not be necessary for the licensee, like the respondent, to give notice to the owners or occupants of the private lands at the time of finalization of the route of the transmission line or even at the time of starting of the work. It is stated that the respondent has agreed to pay the compensation to the petitioners, for the loss and damage, that they would suffer

due to the laying of the transmission lines.

Since the learned Counsel for the petitioners had given up the prayer made in prayer clause (a) and has pressed the prayers in prayer clauses (b), (c), (d) and (e), the writ petition could be conveniently disposed of by accepting the statement made on behalf of the respondent that the respondent would pay the compensation to the petitioners for the loss or damage, that would be incurred by the petitioners, in accordance with law. By prayer clause (b), (c), and (e) the petitioners have only sought a declaration that the petitioners are entitled to full compensation for the loss and damage, that would be incurred by them and the respondent should be liable to pay the same. As the respondent has agreed to pay the same, in accordance with law, it would not be necessary to proceed with the writ petition, any longer.

In view of the aforesaid, we dispose of the writ petition by accepting the statements made on behalf of the respondent. There would be no order as to costs.

JUDGE

JUDGE

Wadkar

C E R T I F I C A T E

I certify that this order uploaded is a true and correct copy of original signed order.

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