

HONOURABLE SRI JUSTICE P. NAVEEN RAO

**CIVIL REVISION PETITION NOS. 3556, 3557, 3587 AND
3588 of 2007**

Date: 23.08.2016

CRP No. 3556 of 2007:

Between:

Guthurthi Nagaraju, s/o. Chandrayya,
Aged 49 years, Cultivation, r/o. Rajapudy,
Korukonda Mandal, East Godavari District.

.... Petitioner/petitioner

and

Power Grid Corporation of India Limited,
New Delhi, rep. by its Chairman and Managing
Director, Nehru Place, New Delhi and others.

.... Respondents/ respondents

This Court made the following:

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COMMON ORDER

The issue for consideration in all the CRPs being same, they are disposed of by common order. In all these civil revision petitions, petitioners challenge the orders of Principal District Judge, East Godavari District, Rajahmundry in respective O.Ps.

2. Petitioners filed O.Ps in the Court of the Principal District Judge, East Godavari, Rajahmundry, claiming for enhancement of compensation paid to them for laying of electricity transmission lines over their lands and to pay compensation to land on which pylons were constructed. Except for granting additional amount of Rs.10,000/- to each of the petitioners in O.P.870 of 2002, O.P. 868 of 2002 and O.P. 706 of 2002 (CRP Nos.3587, 3588 and 3557 of 2006) and Rs.25,000/- to petitioner in O.P. 869 of 2002 (CRP No. 3556 of 2006), the claim of petitioners for enhancement of compensation against cutting of trees and to grant compensation for land was denied. Hence, these civil revision petitions are filed.

3. Heard Sri V.V.Anil Kumar for petitioners and Sri Sarva Bhouma Rao, counsel for respondents.

4. For convenience, the facts of C.R.P.No.3587 of 2007 are noted.

5. Petitioner is owner of land to an extent of Ac.1.00 in R.S.No.375/46 of Kanupur Village of Korukonda Mandal in East Godavari District. Respondent Corporation has taken up work of laying electricity transmission lines from Talcher in Orissa State to Bangalore in the State of Karnataka and the said electricity transmission lines passed through the petitioner's land. Pylon/pylons was/were constructed on the land of the petitioner and transmission lines were laid through his land. Some of the trees standing on the said land were cut in order to lay the transmission line and pylon. Towards trees removed, Rs.19,375/- was determined as compensation and Rs.5,562/-towards compensation for damaged crop. The said compensation was paid. Claiming compensation of Rs.2 lakhs towards laying of pylon, higher compensation towards cutting of trees and Rs.50,000/- towards mental agony, petitioner filed O.P.No.870 of 2002.

6. The case of the petitioners was that on account of laying of pylon, the entire land covered with pylon is lost and therefore, the petitioners are entitled to compensation for permanently losing the land for cultivation. Petitioners also contended that there were large number of grown up trees giving good yield and because of cutting those trees, huge loss is caused to them and therefore, they are entitled to higher compensation. It was also their case that petitioners engaged coolies for cutting and transporting the trees by spending huge money on the assurance given by the respondents that they would

reimburse the amount incurred by them, but the same was not paid. It was further contended that on account of cutting of trees and laying of electrical lines, damage was caused to their lands and they have suffered mental agony and they should be compensated for the mental agony suffered by them.

7. The claim of the petitioners was opposed by the respondents. According to them, compensation was determined by following due procedure; the number of trees required to be cut were identified and with their consent, the trees were cut. Petitioners have authenticated number of trees cut. To the extent trees removed and for damage caused to standing crops, compensation was paid. Though respondent-Corporation laid electrical transmission lines across the lands of the petitioners, there is no requirement to acquire the land. The Court below held that the petitioners are not entitled to enhancement of the compensation and compensation determined was reasonable and not entitled to claim compensation for land utilized to construct pylon. However, having noticed that the lands in issue were dry lands and major source of generating revenue is through tree plantation and because of the restrictions imposed, the trees cannot be grown beyond particular height in view of overhead transmission lines, the Court below found that the petitioners are entitled to an additional compensation of Rs.10,000/Rs.25,000, respectively. . Thus, except to the extent of granting additional compensation of Rs.10,000/Rs.25,000, the claim made by the petitioners was rejected.

8. There are two limbs of claim made by the petitioners. First limb of the claim relates to compensation for land on which pylons were erected and second limb relates to enhancement of the compensation for removal of grownup trees for laying of the electrical transmission lines. The court below denied both the claims.

9. With reference to second aspect of the claim, there was an elaborate discussion on the entitlement of the petitioners. After analyzing the evidence on record, categorical finding is recorded that the number of trees which were felled were identified with the full knowledge of the owners of the lands and compensation was paid. A categorical finding was recorded that trees were cut by the respondents only and petitioners took away the branches etc of the trees cut. Finding of fact arrived at on second limb, on detailed analysis of evidence on record, cannot be interfered in these revisions. As seen from the order of the Court below, cogent reasons are assigned in support of the findings.

10. On the first limb of the claim for compensation for land utilized for erection of pylons was summarily rejected. The submission of the respondents that they have not prevented the petitioners from utilizing the land under the pylon was accepted and it was held that since the land was permitted to be utilized, the question of payment of compensation would not arise. It was further held that the said lands are dry lands, as such, can be utilized only for the purpose of planting trees and not useful for cultivation

and therefore additional compensation of Rs.10,000/- was awarded in three cases and insofar as CRP 3556 of 2007 is concerned, an amount of Rs.25,000/- was awarded.

11. On the issue of claim for compensation on land for erection of pylons, it is seen that the reasoning assigned by Court below is self contradictory. Once the Court below holds that the said lands are dry lands and no seasonal crops can be grown, the question of utilizing the land under pylon to grow big trees would not arise. The entire land under pylon becomes useless, even assuming that petitioners are permitted to utilize the said land. This fact was lost sight of by Court below. Thus, denial of claim for compensation for the land utilized for erecting pylon cannot be sustained.

12. The issue of payment of compensation for utilizing land for erecting pylons came up for consideration before this Court in several cases. In W.P.Nos.30825 and 30830 of 2013 dated 16.6.2014, petitioners therein claimed for payment of compensation for the entire extent of land on which pylons were erected and transmission lines were erected. Having regard to the provisions of the Indian Telegraphic Act, 1885 and Indian Electricity Act, 2003, the claim to acquire entire land was denied. This Court held that the provisions of the Land Acquisition Act (old) are not attracted in view of the provisions of Indian Telegraph Act and Indian Electricity Act. However, this Court held that to the extent of the land where pylons were laid, the owner is entitled to payment of compensation. Similar issue has come up for consideration in W.P.No.9310 of 2014. The respondent did not oppose claim for compensation to the extent of utilization of the land for establishment of pylon. The said writ petition was disposed of giving directions for payment of appropriate compensation for the land utilized to erect pylons.

13. Once a pylon is erected, land under the pylon cannot be utilized for any other purpose. Therefore, farmer cannot be subjected to permanent loss of his land where pylon is erected without being compensated. Thus, to the extent of land utilized for establishment of pylon, the land owner is entitled to be compensated for the loss caused to him. To this extent finding of the Court below is erroneous and liable to be set aside.

14. The next question for consideration is whether the matter be remitted to the respondents to initiate proceedings for determination of appropriate compensation.

15. Learned counsel for petitioners submits that petitioners suffered for more than 14 years and are agreeable for resolution of dispute at this stage instead of remanding the matter to respondent-corporation. He would submit that petitioners are agreeable for consolidated payment of compensation, instead of undertaking detailed exercise to determine compensation. Learned standing counsel also expressed apprehension regarding ownership issue and other complications if steps are now initiated to determine and pay compensation at this distance of time. As noticed above, the entire proceedings commenced in the year 2000 and it is more than 16 years. For more than 14 years, petitioners were deprived of their right to cultivate their lands and were not

compensated. At this stage initiation of fresh proceedings to determine compensation would only result in further delay in payment of compensation.

16. Earlier, matter was adjourned to enable the learned counsels to place before this Court instructions on the extent of land utilized and market value of the land at the time of utilization of land. There is no clarity on the extent of land utilized. Learned counsels inform the Court that when the steps were initiated for laying the transmission lines, the value of the land was Rs.50,000/- per acre, whereas the present value is more than Rs.10,00,000/- per acre. Equity and justice require to give quietus to the litigation. Having regard to the fact that the issue relates to the year 2000 and in order to give quietus to the litigation, I am of the opinion that if the respondent-corporation is directed to pay compensation

@ Rs.50,000/- towards land utilized for erection of one pylon, it would mitigate the hardship of petitioners to some extent. If more than one pylon was erected in a farmer's land, the farmer would be entitled to multiple of Rs.50,000/-.

17. Accordingly, Civil Revision Petitions are disposed of directing the respondent corporation to pay compensation to the petitioners @ Rs.50,000/- per each of the pylons erected. The said amount shall be paid as expeditiously as possible, preferably within a period of four weeks from the date of receipt of copy of this order.

Miscellaneous petitions if any pending in these revision petitions shall stand closed. No costs.

JUSTICE P.NAVEEN RAO

Date : 23.08.2016
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