

Sharayu.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7286 OF 2015

Sau. Asha Bharat Sonawane & Ors. ...Petitioners

Versus

TS Wind Power Developers & Ors. ...Respondents

Mr. Ashok B. Tajane, for the Petitioners.

Mr. Prashant P. Kulkarni, for the Respondent No.1.

Mr. N.C. Walimbe, AGP, for Respondents No. 2 to 4.

**CORAM : SMT. VASANTI A NAIK AND
 RIYAZ I. CHAGLA, JJ.**

DATE : 31 October 2017

ORDER :

By this writ petition, the petitioners seek a direction against the respondents No. 2 to 11 to stop the work of laying the electricity lines as per the resolution of grampanchayat dated 30th August 2014. The petitioners have sought a direction against the respondents No. 2 to 11 to remove the electricity lines that are partially laid.

According to the petitioners, the respondents have laid the electricity lines in the village of the petitioners on the basis of the

resolution passed by the grampanchayat, dated 30th August 2014. It is stated that the laying of the electricity lines in the manner in which they are led, are not only causing obstruction to the petitioners but also causing danger to their life and limb. It is stated that a direction may be issued against the respondents No. 2 to 11 to remove all the electricity lines that are laid and stop laying electricity lines.

The Respondent No. 1 - TS Wind Power Developers, has filed the affidavit in reply. It is stated in the affidavit in reply that laying of the electricity lines was completed on 26th June 2015 by taking utmost case. It is stated that proper procedure was followed by the respondent No. 1 for laying the electricity lines, as stated in paragraph 6 of the affidavit in reply. It is stated that the petitioners had obstructed the respondent No. 1 and the other authorities while the work of laying the lines was in progress and hence, the matter was taken up by the respondent No. 1 before Sub-Divisional Magistrate under the provisions of the Electricity (Supply) Act, 1948 and the Indian Telegraph Act, 1885. It is stated that the Sub-Divisional Magistrate has decided the application of the respondent No. 1 by the order dated 3rd June 2015. It is stated that a finding is recorded by the Sub-Divisional Magistrate in the said order that the electricity lines laid by the respondent No. 1 would not cause any obstruction or inconvenience to the petitioners. It is stated that since the Sub-Divisional

Magistrate has determined the compensation payable to the concerned persons including the petitioners. It is stated that in the circumstances of the case, the writ petition is liable to be dismissed.

The petitioners have not challenged the order of the Sub-Divisional Magistrate or any other order or resolution in this writ petition. It appears that some of the petitioners have filed an appeal against the order of the Sub-Divisional Magistrate under the provisions of the Electricity (Supply) Act, 1948 and the Indian Telegraph Act, 1885. The Sub-Divisional Magistrate has recorded a finding that the laying of the electricity lines by the respondent No. 1 would not cause obstruction or inconvenience to the petitioners. Since the said order is subjected to challenge in appeal filed by the petitioners and since the issues involved in this writ petition cannot be appropriately decided in exercise of the writ jurisdiction, it would be necessary to dispose of the writ petition, so that the petitioners may avail an appropriate remedy, if so advised.

In the circumstances of the case, we dispose of the writ petition, with no order as to costs.

The points raised in the writ petition are kept open.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A NAIK, J.]