

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI**

Writ Appeal No. 349 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Ch. Ravinder, learned counsel for the appellant-writ petitioner, and Sri N. Siva Reddy, learned Standing Counsel for A.P. Transco, and, with their consent, the Writ Appeal is disposed of at the stage of admission.

The appellant herein filed W.P. No. 41453 of 2017 seeking a mandamus to declare the action of the respondents, in issuing notice to him, as arbitrary and illegal; and to direct the respondents not to interfere with their rightful possession and enjoyment of the subject land. Respondents 3 and 5 are said to have laid High Tension(HT) power lines over the subject agricultural lands. The appellant herein has invoked the jurisdiction of this Court contending that laying of HT wires over his land violates his constitutional right under Article 300-A of the Constitution of India.

In the order under appeal, the learned Single Judge relied on a judgment of this Court in **Devisetty Ramaswamy vs. Chief Engineer**¹ wherein, after referring to several provisions of the Telegraph Act, 1885 and Section 164 of the Electricity Act, 2013 (hereinafter referred to as "the 2013 Act"), this Court held that, in exercise of the power under Section 164 of the 2013 Act, the A.P. Transco was required not to initiate acquisition proceedings or obtain consent from the owner.

In **Devisetty Ramaswamy**¹ reliance was placed on the earlier judgments of this Court in **G.V.S. Rama Krishna and others vs. A.P. Transco**² and **K. Subba Raju vs. A.P. Transco**³. Following these

¹ 2013(4) ALD 88

² 2009(3) ALD 343

judgments, the learned Single Judge has, in the order under appeal, held that, in exercise of the power conferred under Section 164 of the 2013 Act, AP Transco was not required to initiate acquisition proceedings or obtain consent from the owner; the appellant-writ petitioner's entitlement for compensation would arise only at a later date; and it could not, therefore, be a ground to hinder completion of the scheme for erection of towers, and laying of transmission lines.

It is not in dispute that the subject lands are agricultural lands. Sri Ch. Ravinder, learned counsel for the appellant-writ petitioner, would, however, contend that the appellant-writ petitioner had purchased these lands with a view to construct a hospital in future as his children are undergoing MBBS course. The fact, however, remains that the transmission lines were laid over agricultural lands, and these lands have not been converted for non-agricultural purposes even as on date.

What however, appears to have escaped the attention of the learned Single Judge are the contents of GO Rt No. 83 dated 20.6.2017 issued by the Government of Andhra Pradesh framing guidelines for payment of compensation towards damages in regard to the width of right of way of transmission lines. A copy of the said GO has been placed before us by Sri N. Siva Reddy, learned Standing Counsel for AP Transco, who would fairly state that the appellant-writ petitioner is entitled to be paid compensation in terms of the said GO.

In terms of GO Rt. No. 83 dated 20.6.2017, compensation at 100% of the land value is required to be paid for the tower base area, and diminished compensation is to be paid in the width of right of the way corridor caused because of laying of transmission lines. Unlike the requirement earlier, of compensation having to be paid only for crop

³ 2010(4) ALD 358

damage, G.O.Rt. No.83 dated 20.06.2017 provides for additional compensation in terms of the land occupied for construction of towers, and for diminished computation for the width of the right of way corridor.

Suffice it, therefore, to modify the order of the learned Single Judge, and direct respondents 3 and 5 to determine the compensation payable to the appellant-writ petitioner in terms of GO RT No. 83 dated 20.6.2017, and pay the same within eight weeks from today.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(N. BALAYOGI, J)

8th March, 2018

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