

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.09.2020

Pronounced on : 01.10.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.10986 of 2020

and

WMP.Nos.13354, 13356 and 13353 of 2018

1. Sivakumar
2. Sivabakeyam
3. Kalpana
4. SenthilkumarPetitioners

Vs.

1.The District Collector,
Tiruppur District,
Tiruppur.
2.The Power Grid Corporation of India Ltd.,
Rep. By the Deputy General Manager,
Kovai Main Road,
Karur.Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 20.11.2019 Na.Ka.No.17258/2018/C 4 passed by the first respondent herein in respect of S.F.No.65/1 and S.F.No.249/2 of Panikkampatti Village, Palladam Taluk, Tiruppur District quash the same insofar as against the writ petitioners herein and direct the first respondent herein to determine compensation for the aforesaid lands afresh in the manner known to law after hearing the objections of the writ petitioners in person.

For Petitioner : Mr.C.R.Prasanan

For Respondents : Mr.S.N.Parthasarathi - R1
Government Advocate

Mr.R.Thiyagarajan - R2
Senior Counsel

O R D E R

The present Writ Petition has been filed challenging the impugned order passed by the first respondent dated 20.11.2019, fixing the compensation payable to the petitioners. During the pendency of this writ petition, the first respondent passed another order dated 29.08.2020, enhancing the compensation payable to the petitioners. The said order is also put to challenge by the petitioners and an amendment application was filed in WMP No.15881 of 2020 and the same was allowed by this Court by order dated 28.09.2020. The petitioners are seeking for the interference of the above orders passed by the first respondent and for a consequential direction to the first respondent to give an opportunity to the petitioners and thereafter, pass orders fixing the compensation.

2. The petitioners are the owners of the subject properties. The second respondent is a Government of India enterprise. The second respondent is empowered under the provisions of the Electricity Act, 2003 and the Indian Telegraph Act, 1855, to erect and maintain power transmission towers and to draw transmission lines under, over, along or across and posts in or upon any immovable property.

3. The second respondent was entrusted with a transmission line project. Pursuant to the same, the second respondent, after getting the necessary permission from the first respondent to enter upon the property, started the work of laying towers in the property belonging to the petitioners. Similar such towers were also laid in various properties, which are adjacent to the properties belonging to the petitioners.

4. The first respondent, by proceedings dated 20.11.2019, fixed the compensation at the rate of Rs.7,667/- per cent. The petitioners were aggrieved with the compensation fixed by the first respondent mainly on the ground that they were not given opportunity before the compensation was fixed. Yet another ground that was raised by the petitioners is that higher compensation has been fixed for the adjacent lands and there is no reason to fix a lower compensation for the properties belonging to the petitioners. During the pendency of this writ petition, the first respondent passed an order dated 29.08.2020, enhancing the compensation to Rs.11,055/- per cent. This subsequent order has also been challenged on the very same grounds.

5. The 2nd respondent has filed a counter affidavit. The relevant portions in the counter affidavit is extracted

hereunder:

''13.....In this regard, I respectfully submit that holding of enquiry for fixation of land compensation is not contemplated in the statutes governing the Power Transmission Lines viz., Indian Telegraph Act, 1885 and the Electricity Act, 2003 and the compensation for the land component is fixed on the basis of the guidelines stipulated in G.O.Ms.No.63 dated 22.11.2017 and subsequent directives of the Government of Tamil Nadu and the quantum of compensation based on land value is arrived at by the first respondent on the basis of the guidelines issued by the Commissioner of Land Administration.

16.....I submit that the land value is to be determined by the competent authority, viz., District Collector/District Magistrate on the basis of the prevailing guideline value in the State of Tamil Nadu. Subsequently, by the communication dated 16.05.2018, the Principal Secretary to Government, Energy Department, Government of Tamil Nadu revising the procedures for assessing and determining the market value of the land for payment of compensation as per the procedure contemplated under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Thus, the land owners are entitled for payment of compensation towards diminution of land value on the basis of G.O.Ms.No.63 Energy (A1) Department dated 22.11.2017 issued by Government of Tamil Nadu and that of the communication dated 16.05.2018 issued by the Principal Secretary to Government, Energy Department, to all the District Collectors of the State to assess and issue necessary orders for payment of land compensation in respect of tower base and right of way corridor as per G.O.Ms.No.281 dated 07.09.2017. It is also pertinent to bring to the notice of this Hon'ble court, by issuance of G.O.Ms.No.86 dated 30.10.2019, the compensation payable in respect of tower base area and the line corridor has been increased by 100% and 20% respectively.

17.....In this regard, I reiterate here that holding of enquiry is not contemplated as no land compensation is only on the basis of Central & State GO's referred to at paras supra. The mode and manner of assessment of compensation has been spelt out in G.O.Ms.No.63 dated 22.11.2017 and G.O.Ms.No.86 dated 30.10.2019 and the same does not mandate for holding of enquiry for the purpose of determination of land compensation. I am advised to submit that if the petitioners are aggrieved by the quantum of compensation determined by the first respondent, their remedy lies before the Court of Jurisdictional District Judge for redressal as per Section 16(3) of the Indian Telegraph Act, 1885 and cannot seek remedy before this Hon'ble Court of interalia stating that no enquiry was conducted before determination of the compensation. I respectfully submit that

the petitioners are not entitled to maintain the present writ petition, Similar view has been taken by the Hon'ble Supreme Court of India in the case of Power Grid Corporation of India Ltd., Vs. Century Textiles and Industries Ltd., and others reported in 2017 5 SCC 143.

18....The further averment of the petitioner in Para 4 of the affidavit is also misleading. The order dated 20.11.2019 does not refer to any individual's name. It refers only to the survey numbers, extent of land and value of compensation determined on the basis of Guideline value fixed by the revenue authorities. In fact in respect of some survey numbers, the compensation fixed is less than Rs.7,697/- per cent. In fact, for some lands, the compensation is fixed at the rate of Rs.3,687/- per cent, Rs.4,023/- per cent, Rs.5,370/- per cent and Rs.6,702/- per cent. Even these lands are adjacent to the petitioners' land. Therefore, the petitioners cannot allege that compensation fixed for their neighboring property is much higher than their lands. The compensation is determined on the basis of last guideline value of the Survey numbers and any transactions in the last 3 years. The impugned order further states that the value has been taken into account for the period 18.01.2016 to 17.01.2019 for the purpose of determining the compensation on the diminutive value of the land. The petitioner has referred to the fixation of compensation for all the farmers. The petitioners have also averred that they came to know about the fixation of compensation through other farmers. The same is factually incorrect and the petitioners are put to strict proof of the same. Further in para 4 of the affidavit the petitioner has stated that on 20.05.2020, they had sent representation to the first respondent to reconsider the method of compensation and fix the compensation equally among all the farmers. In this regard, a reading of the letter dated 20.05.2020 would go to show that the petitioners had requested the first respondent not to permit this respondent to carry on the works in their land. In the said letter, the petitioners have accepted the guideline value of their land is less and that they are planning to approach the Court for redressal of their grievance. I respectfully submit that if the petitioners are aggrieved by the fixation of compensation on the basis of the guideline and the procedure adopted by the first respondent for arriving at the quantum of compensation, they have to approach the Jurisdictional District Court and cannot invoke the writ jurisdiction of this Hon'ble Court.

6. Mr.C.R.Prasanan, learned counsel appearing on behalf of the petitioners made the following submissions:

- Even though the Telegraph Act is silent about giving opportunity of personal hearing to the land owners,

before fixing the compensation, principles of natural justice will have to be read into the Act and the first respondent, before fixing the compensation, must give such an opportunity to the owners of the property.

- In order to substantiate this submission, the learned counsel relied upon the judgment of the Full Bench of this Court in the case of R.Pari .v. the Special Tahsildar, Adi-Dravidar Welfare, Devakottai and another, reported in 2006 (4) CTC 609. The relevant paragraphs relied upon by the learned counsel are extracted hereunder:

'16. It is true that Section 4 of the State Act substantially encapsulates the provisions of Sections 4 to 6 of the Central Act. However, there are certain subtle and yet important differences between the two Acts. As a matter of fact, in State of Tamil Nadu and others v. Ananthi Ammal and others, AIR 1995 SC 2114, the Supreme Court itself observed that there was a major difference to the effect that under the State Act it is the District Collector and not the Government, who must be satisfied that the land should be acquired. It is of course true that this major difference did not make the provisions contained in Section 4 unreasonable or arbitrary as observed by the Supreme Court. Apart from the fact that under the Central Act the ultimate decision as to whether the land should be acquired or not vests with the State Government and not with the District Collector, who obviously is less experienced, there are certain other important differences which can be noticed.

17. In the Central Act, Section 5-A itself contains detailed provision enabling the person interested to object to the land acquisition, as apparent from Section 5-A(1). Under Section 5-A(2), every such objection is required to be made before the Collector (which means the Land Acquisition Collector as defined) and such provision itself expressly contemplates that the Collector shall give the objector an opportunity of being heard. Thereafter the Collector is empowered to make reports together with record of the proceedings held by him for the decision of the appropriate Government. Section 5-A(2) itself contemplates that the decision of the appropriate Government on the objection shall be final. Under the Land Acquisition (Tamil Nadu Amendment) Act, 1996 (Act XVI of 1997), certain amendments have been effected in respect of Section 5-A (2) of the Central Act and as per such Tamil Nadu Amendment, the report is required to be made to the Government, where the notification under sub-section (1) of Section 4 was published by the Government and to the Commissioner of Land Administration, where the notification under sub-section (1) of Section 4 was published by the Commissioner of Land Administration or by the

Collector. In exercise of power conferred under Section 55(1) of the Central Act, Rules have been amended as per Land Acquisition (Tamil Nadu) Rules. Under Rule 4(b), notice is required to be given to the objector as well as to the Department or the Company requiring the land and the copies of the objections are required to be forwarded to such Department or Company and such Department or Company is permitted to file statement by way of answer to the objections. Under Rule 4(c), on the date fixed for enquiry, the Collector is required to hear the objector as well as the department or the company and record any evidence that may be produced by both in support of the objections and in support of the need for acquiring the land. Under Rule 5, on completion of the enquiry, the Collector is required to submit the case for the decision of the Government through the Commissioner of Land Administration in the manner provided in Section 5-A(2) of the Land Acquisition Act and under Rule 6: "On consideration of the objections and the reports thereon, if Government decide that the land should be acquired, the draft declaration under Section 6 shall be approved by the Government and published in the Tamil Nadu Government Gazette as required under sub-section (1) of the said Section in two daily newspapers circulating in that locality."

It is thus obvious that the statutory provisions including the Rules contain the detailed provisions in the manner in which such enquiry is to be held and the extent to which the principles of natural justice are required to be followed.

18. Under the State Act, the statutory provisions in the shape of Section 4 and Rule 3 are silent regarding holding of any enquiry (either by the District Collector or by the authorised officer). The statutory provisions merely contemplate issuance of notice to show cause and the Rules only contemplate issuance of notice in Form I. However, such Form I specifically contemplates "the statement of objections, if any," received within the time stipulated will be enquired into "at a particular place" on "a particular date" at the office of "a particular officer", to be specified in such notice. The Form-I further contemplates that the person interested is at liberty to appear and to adduce any oral and documentary evidence in support of his objection. It is no doubt true that such a notice in the statutorily prescribed form can be considered as part of the Rules. However, the procedure to be followed by the authorised officer is not specifically laid down, save and except as contained in Section 4(3)(b). This clause only contemplates that the officer authorised shall make report to the District Collector containing his recommendations on the cause so shown for the decision of the District Collector. It further contemplates that the District Collector may pass such orders as he may deem fit after considering such report. The

provisions contained in the Act, the Rules or in Form-I do not specifically envisage as to which record will be placed before the District Collector. Similarly the provisions are silent as to whether the copy of report of the authorised officer is required to be furnished to the objectors. The principles of natural justice regarding furnishing of copy of report can be considered as super added to such provisions. It cannot be said that merely because the Form-I does not specifically prescribe any further opportunity, such opportunity is impliedly proscribed. Since the Central Act had specifically and in detail made certain provisions, it is reasonable to conclude that the Central Act has exhaustively laid down the manner in which and the extent of principles of natural justice is required to be complied with and impliedly excluded any other extension of principles of natural justice; whereas under the State Act the statutory provisions and the Rules being silent, the scope and extent of natural justice to be followed need not be confined to whatever has been described in the Form-I.

19. Under the Central Act, the power of eminent domain is with the appropriate Government, which obviously would mean an officer of very high rank and experience, whereas under the State Act it is with the Collector, who obviously is an officer of much inferior rank and less experience as compared to the Secretary to the Government. Since enormous power and responsibility have been vested with a comparatively less senior and less experienced officer, to lessen the possibility of any arbitrary and immature decision being taken, it is always desirable to strengthen the procedural safeguard by reading into the provisions, the principles of natural justice in the shape of at least giving an opportunity of making a further representation to the Collector on the recommendation/report of the authorised officer.

20. This aspect can be viewed from another angle. Neither in Section 4 nor in the Rules or even in the Form-I, there is any guideline prescribed as to when the matter would be delegated to the authorised officer or when the matter is to be retained by the Collector. Under the provisions of the State Act, certain power can be exercised by the prescribed authority. According to Section 3(j), "Prescribed Authority" means any authority or Officer authorised by the Government in this regard, by notification. However, "authorised officer" as contemplated in Section 4(2) or (3) is an officer to be authorised by the District Collector and may be different from the prescribed authority. This is clear from the expression contained in Section 4(3) (b) to the effect—

"Where any officer authorised by the District Collector has called upon the owner or other person to show cause under sub-

section (2), the officer so authorised shall make a report to the District Collector ..."

The question as to whether the proposal to initiate acquisition proceedings is to emanate from the District Collector or an officer authorised by the District Collector is thus left to the discretion of the District Collector. If the District Collector deigns it fit to issue notice himself, the concerned owner or the interested person will have the privilege of filing his objection and having the matter enquired into by the District Collector and can thus avail the benefit of enquiry and personal hearing before the District Collector, whereas if the District Collector for whatever reason thinks it proper to delegate such power to the officer authorised by him, such objection is to be filed before the authorised officer and the enquiry is to be held by such authorized officer and thereafter the report is to be submitted before the District Collector. Under the Central Act, there is no such possibility as the enquiry under Section 5-A is statutorily required to be made by one authority, namely, the Collector (The Collector as defined in the Land Acquisition Act, 1894).

21. In this connection, it may be stated that when specifically question was put to the learned Additional Advocate General as to in which matters the notice will be issued by the District Collector and in which matters the notice will be issued by the authorised officer, learned Addl. Advocate General submitted that when a smaller patch is required to be acquired and less number of persons are interested in filing the objection, the Collector can "conveniently take up the matter as he can spare some time" and if the extent of land required to be acquired is more and as such more number of persons are likely to be interested in filing objections, the District Collector because of his manifold other duties may not have sufficient time to tackle the matter and in such an event he may authorise another officer to issue notice and to hold enquiry and to submit the report.

22. We find this submission to be rather inappropriate and unconvincing and do not think such an approach would be a proper approach. We rather feel that if more persons are likely to be affected, it would be expected of the Collector to bestow personal and careful attention rather than when lesser number of persons are likely to be affected.

23. Either way the situation does not appear to be happy and there is no apparent guideline in the matter. Even though the validity of such provision does not appear to have been challenged on account of excessive and unbridled delegation, the matter can be regulated by laying down well defined guideline in

the shape of statutory rules rather than leaving it to the untrammelled discretion of the Collector. At any rate, the possibility of such challenge can be waived by following a definite procedure to the effect that the cases where the objections are required to be filed before the authorised officer and enquiry is to be held by such authorised officer, the persons likely to be affected can be given some semblance of equality in treatment by giving them opportunity of filing further representation to the District Collector by pointing out the perceived shortcomings in the report of the authorised officer and by highlighting their own grievances.

24. Apart from the above, subtle and yet important distinctions between the two Acts, there are other dissimilarities, particularly after the amendment of the Central Act by Act 29 of 1984, which can be noticed hereunder:

Under the State Act, no time limit is fixed for completion of the enquiry either before the District Collector or before the authorised officer and for taking any appropriate decision, whereas under the Central Act, specific time frame is contemplated, including the time fixed for completion of award enquiry. Under the State Act, solatium payable is significantly less than the solatium payable under the Central Act after such amendment has been effected. Similarly there is no provision corresponding to Section 23(1-A) and the interest payable remains unaltered notwithstanding the fact that under the Central Act interest payable has been increased. These are the matters which are required to be considered by the State Government. Since the State Government is expected to discharge its duty as an ideal State, it is obvious that the State is required to balance different factors and to come to an appropriate decision. We are conscious that mere disparity in payment of solatium and other benefits may not be a ground for questioning the validity of an Act. However, as an ideal State, it is obviously always the duty of the State to dispel any doubt regarding inequality. In this context, it has to be remembered that the State Government has also power to acquire lands for the purpose of rehabilitation of the persons belonging to "other backward communities" or "most backward communities", in which event, the State is required to take resort to the provisions contained in the Central Act. Even though the object of acquisitions under these two Acts may be similar, that is to say, to rehabilitate the deprived persons of the society, the resultant compensation may vary to great extent, which is again a matter required to be considered by the State Government.'

- The compensation for the adjacent land owners has been fixed at a higher rate and there is absolutely no reason as to why a lower rate was fixed for the lands belonging

to the petitioners.

7. Mr.R.Thiyagarajan, learned Senior Counsel appearing on behalf of the 2nd respondent made the following submissions:

- The 2nd respondent gets only a right of way/user in the property under proviso (b) to Section 10 of the Indian Telegraph Act, 1885. The 2nd respondent does not acquire the property and the ownership continues with the petitioners.
- The amount paid to the owners is only towards the damage caused to the property as per proviso (d) to Section 10 of the Indian Telegraph Act, 1885.
- The compensation payable for the land was introduced only in the year 2015 by the Government of India and accordingly, the government orders have been issued giving the guidelines for the payment of compensation and these guidelines will have to be followed for the purpose of fixing the compensation by the Collector. Therefore, no personal opportunity is contemplated before the fixing of the compensation.
- If any person is aggrieved by the compensation fixed by the Collector, the owner of the property will have to go before the concerned District Court under Section 16(3) of the Indian Telegraph Act, 1885 and a writ petition cannot be filed before this Court questioning the compensation fixed by the first respondent.
- The learned Senior Counsel placed reliance upon the judgment of the Hon'ble Supreme Court in the case of Power Grid Corporation of India Limited .v. Century Textiles and Industries Limited and others reported in 2017 (5) SCC 143. The relevant portions relied upon, is extracted hereunder:

'23. Section 10 of the Telegraph Act, 1885 empowers the telegraph authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Telegraph Act, 1885 makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property. Further, Section 10(d) of the Telegraph Act, 1885 obliges the telegraph authority to ensure that it causes as little damage as possible and that the telegraph authority shall

also be obliged to pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

28. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the District Judge concerned for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated 15-10-2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines."

- The learned Senior Counsel also placed reliance upon the judgment in T.Buvaneswari .v District Collector made in SLP(civil) No.6703 of 2016, dated 11.07.2016. The relevant portions are extracted hereunder:

"We also find the learned Single Judge had passed order for grant of compensation which is to be decided by the District Judge. Before the District Judge, it would be open to the petitioner to establish his case that after the laying of said transmission lines, it is not possible for him to use his land and if that is found to be correct, District Judge will be at liberty to grant due compensation which may be the value/market price of the land itself. District Judge will complete the inquiry within six months from today.

- The grievance of the petitioners in the original grounds raised in the writ petition pertains to not following the circular dated 23.05.2020, issued by the Commissioner of Land Administration. This guideline has now been followed in the subsequent order passed by the first respondent and the compensation amount has been increased. If, inspite of the same, the petitioners are not satisfied with the compensation fixed by the 1st respondent, they should only approach the competent District Court and work out their remedy.

8.Mr.S.N.Parthasarathi, learned Government Advocate appearing on behalf of the first respondent adopted the

arguments made by the learned Senior Counsel appearing on behalf of the second respondent and submitted that the first respondent has fixed the compensation as per the existing guidelines and there is absolutely no ground to interfere with the same.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. The second respondent is a deemed transmission licensee and it has been so notified by the Government of India, by notification dated 27.11.2003. The second respondent derives their power from the Indian Telegraph Act, 1885. Section 10 of the Indian Telegraph Act, 1885, specifically deals with the power of the authority to put to use any property for the purpose of erecting towers or drawing overhead lines. By doing so, the authority does not become the owner of the property and the only right that is granted is the right of user. The ownership continues to be vested with the original owners of the property. Proviso (d) to Section 10 provides for payment of compensation for any damage caused to the property in the course of carrying on with the work. In that sense, it cannot be equated with a compensation payable for acquiring a property under the relevant Land Acquisition Enactment. In that case, the ownership itself stands shifted to the Government.

11. The Government of India formed a Committee in order to have a uniform methodology for payment of compensation. Guidelines were issued by the Government of India by a circular dated 15.10.2010. In the said circular, the States and Union Territories were requested to take a suitable decision regarding adoption of the guidelines, since acquisition of land is a State subject. Pursuant to the same, G.O.Ms.No.63, dated 22.11.2017, was brought into force and the relevant portions in the Government order is extracted hereunder:

4. The Government after careful examination of the proposal of Chairman, TANTRASCO have decided to accept the same. Accordingly, the Government order the adoption of Government of India, Ministry of Power guidelines for payment of compensation towards damages in regard to Right of way for transmission lines covering 110 KV lines and above as below, subject to the condition that it will be applicable only to new projects with prospective effect:

a. 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).

b. Compensation towards diminution of land value in the width of Right of Way (RoW) Corridor due to laying of transmission line subject to a maximum of 15% of land value as determined based on Circle rate/Guideline value/stamp Act rate.'

12. There was a letter issued by the Principal Secretary to Government to all the concerned departments, dated 16.05.2018. The relevant portions in the letter is extracted hereunder:

'2. In the letter second cited Chairman, TANTRASCO has requested the Government to issue an amendment to G.O.(Ms) No.63 Energy (A1) Department, dated 22.11.2017, para 4(a) & (b) as below:

a. Land value shall be determined by District Magistrate by adopting the methodology prescribed in the land acquisition G.O.No.281 dated 07.09.2017 issued by the Revenue and Disaster Management Department, Government of Tamil Nadu.

b. Land compensation for the lower base area (between four feet) at 85% shall be arrived based on the land value determined in 'a'.

c. Compensation towards diminution of land value in the width of Right of Way (RoW) Corridor due to laying of transmission line, subject to a maximum of 15% of land value shall be arrived based on the land value determined in 'a'.

d. Land owner identification shall be done by the Revenue Department.'

TANTRASCO and other transmission utilities shall made payment for land compensation to the land owners after getting orders from the District Collectors concerned.

3. I am to state that the orders issued in G.O.Ms.No.63, Energy (A1) Department, dated 22.11.2017 to pay compensation towards damages in regards to Right of Way for transmission lines, as stipulated in section 67 & 68 of the electricity Act, 2003 read with Section 10 & 16 of Telegraph Act, 1885 may be continued as it is private negotiation, which will avoid unnecessary litigation for enhanced compensation as in the case of land acquisition, the negotiated value of land may be determined as per the Revenue and Disaster Management Department, G.O.(Ms.) No.281 dated 07.09.2017, which can then be adopted as the basis of compensation for such Right of Way as suggested in para 2(b) and (c) above.

13. The Government, thereafter, took a decision to enhance the compensation and also for fixation of compensation for coconut trees. Accordingly, G.O.Ms.No.86, dated 30.10.2019 was passed.

14. The first respondent, while fixing the compensation payable to the petitioners, took into consideration all the Government Orders and fixed a compensation at sum of Rs.7,667/- per cent. This compensation was enhanced in the subsequent proceedings dated 29.08.2020, wherein it was fixed as Rs.11,055/- per cent. As rightly contended by the learned Senior Counsel appearing on behalf of the second respondent, the first respondent took into consideration the circular dated 23.05.2020, while fixing the enhanced compensation. Therefore, the grievance raised by the petitioners in this regard has been taken care by the first respondent while passing the subsequent order dated 29.08.2020.

15. The main ground raised by the learned counsel for the petitioners is that compensation can be fixed only after giving sufficient opportunity to the land owner. The reply given by the learned Senior Counsel appearing on behalf of the second respondent regarding this contention is that the first respondent fixes compensation based only on certain guidelines fixed by the Government Orders and it is not based on any evidence to be let in for this purpose. Therefore, giving a personal opportunity of hearing is not contemplated under the Act or the guidelines, and it will be a useless formality to insist for giving opportunity in each and every case while fixing compensation.

16. This Court finds force in the submissions made by the learned counsel appearing on behalf of the respondents. It must be borne-in-mind that the second respondent does not acquire any property and what is paid as a compensation to the land owner is only towards the damages caused to the property. The second respondent only gets the right of user and does not become the owner of the property. The compensation is fixed by the Collector based on certain guidelines given by the above mentioned Government Orders. The first respondent does not record evidence for the purpose of fixing compensation.

17. The enquiry conducted by the Collector at the time of determining the award amount payable to the owner of the property under the Land Acquisition Enactments, comes under a different footing altogether. In Land Acquisition cases, the property is taken over by the Government and the ownership itself is transferred to the Government. Therefore, the concerned Enactments themselves provide for a personal hearing by the Collector at the time of determination of the award

amount payable to the owner of the property. The Full Bench judgment relied upon by the learned counsel for the petitioners also falls within the category of land acquisition and that is the reason why this Court read into it the principles of natural justice, even though it was not specifically provided under the relevant enactment. The ratio in the said judgment cannot be directly imported to the facts of the present case, since this case deals with the payment of compensation for the damage caused in the course of utilising the property by an authority, who has been given only the right of user and the property continues to be under the ownership of the original owner.

18. The 1st respondent commences the process of determination of the compensation only based on the application/representation submitted by the land owner. Based on those particulars furnished by the land owner, the 1st respondent applies the guidelines provided in the above Government orders and determines the compensation. The first respondent merely fixes compensation based on the guidelines given in the Government Orders. The first respondent does not record any evidence for the purpose of deciding the compensation amount payable to the owner of the property. The first respondent has given reasons, for arriving at the compensation amount payable to the land owner. Providing such reasons justifying the fixation of compensation as per the guidelines itself sufficiently fulfills the principles of natural justice. This exercise need not necessarily involve personal hearing of the parties and that procedure will be a useless formality, not contemplated under the Act or the relevant Government orders. That is the reason why Section 16(3) of the Telegraph Act gives an opportunity to the owner of the property to approach the concerned District Court, if he or she is not satisfied with the compensation that is paid under Section 10(d) of the Act. The judgment of the Hon'ble Supreme Court referred supra also makes it clear that the appropriate course of action is only to file a suit before the District Judge for this purpose. Ultimately, the grievance of the petitioners touches upon the sufficiency of the compensation amount fixed by the Collector and the same can always be questioned before the District Court, by even letting in evidence. The petitioners can also bring to the notice of the District Court the higher compensation fixed for the adjacent land owners.

19. This Court cannot undertake the exercise of determining the correctness of the compensation fixed by the 1st respondent since it involves appreciation of facts, and there is an effective alternative remedy for the petitioners to approach the District Court under Section 16(3) of the Indian Telegraph Act,

1885.

20. In view of the above discussion, this Court is not inclined to interfere with the impugned proceedings of the first respondent and test the correctness or otherwise of the order. It is always open to the petitioners to go before the concerned District Court and exercise their rights under Section 16(3) of the Indian Telegraph Act, 1885. Except giving this liberty, no further orders can be passed by this Court in the present writ petition.

21. This writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are also closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The District Collector,
Tiruppur District,
Tiruppur.
2. The Deputy General Manager,
The Power Grid Corporation of India Ltd.,
Kovai Main Road,
Karur.

+1cc to M/s. C.R.Prasanan, Advocate, SR.No.32534

+1cc to M/s. Aiyar and Dolia, Advocate, SR.No.32538

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Pre-Delivery Order in
W.P.No.10986 of 2020

KJ(CO)
RN(20/10/2020)