



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	09.07.2021
PRONOUNCED ON	09.09.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.8394 of 2016
and
W.M.P.No.7437 of 2016
(Through Video Conferencing)

1.A.Ponnambalam

2.A.Manimekalai

...Petitioners

Vs.

1. The Power Grid Corporation of India Ltd.,
Rep. by its Chairman, Soudamini,
Plot No.2, Sector 29,
Gurgaon, Haryana - 122 001.

2. The Executive Director,
Power Grid Corporation of India Limited,
Southern Region Transmission System II,
RHQ, Near RTO Driving Test Track,
Singanayakanahalli, Yelahanka Hobli,
Bengaluru - 560 064.

3. The Deputy General Manager,
Power Grid Corporation of India Limited,
400 KV Sub Station, K.R.Thoppur,
Salem District, Salem.

4. The District Collector,
Salem District, Salem.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the respondents relating to the impugned order dated 08.12.2015, passed by the learned I Additional District Judge, Salem in Telegraph Original Petition No.80 of 2007 and quash the same and consequently allow the same by awarding compensation to the tune of Rs.20,00,000/- along with interest at the rate of 24% per annum for the damages caused by the respondents while drawing the electric line of 400 KV from Palacode to Salem.



WEB COPY

For Petitioners: Mr.T.Sai Krishnan
for Sai Bharath and Ilan

For R1 to R3 : Mr.Jayesh Dolia
for M/s.Aiyar & Dolia

For R4 : Mr.C.Kathiravan, Govt. Adv.

O R D E R

The first petitioner is aged about 74 years and the second petitioner is aged about 76 years at the time of filing of this Writ Petition.

2. The petitioners have challenged the impugned order dated 08.12.2015 passed by the I Additional District Court, Salem (hereinafter referred to as Lower Court) in Telegraph O.P.No.80 of 2007 filed by the petitioners' mother late Mrs.A.Ammasi Ammal under Section 16(i)(3) of the Indian Telegraph Act, 1885 read with Sections 10-19 and 42 of the Electricity (Supply) Act, 1948.

3. By the impugned order dated 08.12.2015, the Lower Court has dismissed Telegraph O.P.No.80 of 2007 filed by the petitioners' mother late Mrs.A.Ammasi Ammal who has since deceased during the pendency of Telegraph O.P.No.80 of 2007 before the said Court.

4. By the impugned order, the Lower Court has dismissed the application for not of impleading necessary party, namely the Revenue Authorities. The operative portion of the impugned order dated 08.12.2015 passed by the Lower Court reads as under:-

" Even though, the petitioners have estimated their loss on based on their own in Ex.P.2 and P.8 with different estimate and also they obtained estimate report with private agency in Ex.P.14 in different values. According to the respondents as per Section 10 of Indian Telegraph Act, the respondent paid the compensation on the valuation given by the District Collector in Ex.R.3 as per provision of the Telegraph Act. As per the Act damage should be calculated only by Revenue Authorities and not by the private person. As per Ex.R.3 wherein it is mentioned that the District Collector has fixed compensation on the valuation given by the Horticulture, Agriculture and Forest Departments. But there is no mention about the particulars with regard to calculation arrived by their respective departments. Hence, it is clear



WEB COPY

that the respondents paid the compensation as per guideline and norms of the revenue department. The respondents in any way did not fix or did not assess the value of trees. The respondents are only paying authority as per the report given by the District Collector under Ex.R.3. Therefore, without impleading the concerned authorities who were estimated the damages under what basis which cannot be decided the grounds raised in this petition. As per Ex.R.3 the value of trees and crops is fixed by the revenue authorities and therefore they are necessary parties to the proceedings and without perusing the estimate arrived by the Revenue Authorities, this Court is not in a position to consider the claim of the petitioners and the points are answered accordingly."

5. The petitioners' mother late Mrs.A.Ammasi Ammal had filed Telegraph O.P.No.80 of 2007 before the Lower Court for directing the respondents to pay a compensation of Rs.35,65,437,80/- with subsequent interest at the rate of 24% p.a., till the date of realization to the petitioners.

6. After the death of their mother Late Mrs. A.Ammasi Ammal, the case was pursued by the petitioners before the Lower Court. The first petitioner is the son of late Mrs.A.Ammasi Ammal while the second petitioner is her daughter. Since late Mrs.A.Ammasi Ammal was aged, the first petitioner initially pursued with the case as a power of attorney for his mother before the Lower Court. After the death of Late Mrs.A.Ammasi Ammal, the first petitioner, being one of the legal heirs of the late Mrs. A Ammasiammal continued with the said proceeding.

7. It is the case of the petitioners that vide Ex.P1 Notice dated 23.1.2002, the first respondent Power Grid Corporation of India Ltd. informed their mother that following trees were to be cut at Survey No.7/2 in M.N.Patti Village Mettur Taluk, Salem District, for the purpose of laying 400 KV Electric Transmission Line from Palacode to Salem and that efforts will be taken to minimize the damage to the standing trees and crops on the petitioners' mother's property:-

Sl. No.	Types of Trees	Number
1	Mango "Y"	150
2	Palm "Y"	1



Sl. No.	Types of Trees	Number
3	Palm "Non Y"	1
4	Neem	3
5	Babool (Nilotica Acacia)	2

8. The first respondent wanted to chop the above trees in the Late Mrs.A.Ammasi Ammal the petitioners' mother field with a view to run 440 Kilovolt heavy duty wire between Palacode and Salem. Therefore, Ex.P.1 Notice dated 23.01.2002 was issued to their mother under the Sections 10-19 of the Indian Telegraph Act, 1885 read with Section 42 of the Electricity (Supply) Act 1948.

9. Initially, the petitioners' mother made a claim for Rs.21,60,000/- as compensation for cutting trees from the first respondent as detailed below vide Ex.R2 representation dated 22.09.2004:-

Sl. No.	Types of Trees	Amount
1	Mango Trees fully cut - 25 Nos. (Life 25 Years, Value Rs.500/- per Tree p.a.)	Rs. 5,00,000/-
2	Mango Trees partially cut/damaged -125 Nos.(Life 20 Years, Value Rs.250/- per Tree p.a.)	Rs.12,50,000/-
3	Palm " Y" 10 - Nos. (Life 20 Years, Value of Rs.500/- per Tree p.a.)	Rs. 1,00,000/-
4	Palm " No, Y' - 15 Nos. (Life 20 Years, Value Rs.250/- per Tree p.a.)	Rs. 1,50,000/-
5	Neem - 8 Nos (Value Rs.10,000/- each	Rs. 80,000/-
6	Babool - 20 Nos. (Value Rs.150/- per Tree p.a.)	Rs. 30,000/-
7	100 Meters of Fencing (Rs.250/- per meter)	Rs. 25,000/-
8	Compensation for land (one leg of the tower in my land)	Rs. 25,000/-
Total		Rs.21,60,000/-



WEB COPY

Taking a sympathetic consideration & liberal view, we have considered for payment of compensation to the Palm Trees - 02 Nos, Neem Trees - 08 Nos, Mango Trees-07 Nos., Babool Trees-02 Nos., Branches of Mango Trees -45 Nos., and also the 30 Mtr.Length of Five Wires Barbed Wire Fencing. The compensation would be released as per the assessment made by the Revenue Authorities for the above damages. You are requested to allow our staff to cut off the above mentioned trees at the earliest for safety of human life.

17. By the said communication, late Mrs.A.AmmasiAmmal was thus informed that compensation would be paid only as per the assessment of the Revenue Authorities.

18. The petitioners' mother was therefore requested to allow the staff of the first respondent to cut some more trees as mentioned above for the safety of the human life. Accordingly, the representation of the petitioner dated 22.9.2004 was disposed.

19. Vide Ex.R3 dated 28.03.2005, the compensation has been arrived by the fourth respondent. Details of the compensation arrived is as under:-

Sl. No.	Trees / particular	Numbers	Rate	Total
1	Mango Tree	7	Rs.3,000/-	Rs.21,000/-
2	Babool Trees	2	Rs.219/-	Rs. 438/-
3	Palm Trees	2	Rs.100/-	Rs. 200/-
4	Neem Tree	8	Rs.219/-	Rs.1,752/-
5	Mango Trees Branches	45		Rs.12,000/-
6	Damage to fence	30 mtrs.	-	-
Total				Rs.35,390/-

20. It was further informed that the compensation would be released as per the assessment of the Revenue Authorities after cutting the trees which were still standing on the land to avoid any mishap.

21. By Ex.P8 dated 12.03.2005, late Mrs.A.Ammasi Ammal stated that the compensation offered was far below her expectations and therefore requested for an opportunity to



discuss with the Assessing Authority to explain about the fact and loss sustained by the petitioners.

22. Under these circumstances, vide Ex.P9 dated 07.06.2005, the petitioners' mother late Mrs.A.Ammasi Ammal made an additional demand for a compensation of Rs.14,75,000/- for the trees which were cut as detailed below:-

1.Mango Trees fully cut/damaged - 7 Nos.:

All the above trees were hybrid varieties and the yield, from each trees were 50 kgs. On an average.

Value of 50 Kgs : Rs.2500/-

At the rate of Rs.50 per kg Per tree per annum

So Income for 20 years for one tree: Rs.50,000/-

So Income for 20 years for 7 tree : Rs.3,50,000/-

2.Mango Trees - Branches damaged - 45 Nos.

All the 45 trees are of high yielding hybrid varieties and the average yield per tree per annum is 50 kgs. About 50% to 75% of the branches in each trees were damaged. And the damaged trees did not give any yield for the past three years. The health of the trees are much affected and the yield during their rest of their life, about 20 years may be negligible only. So the 45 trees are also eligible for full compensation, but with good intension I agree for 50% compensation for the 45 trees for 20 years.

So based on the norms applied for the 7 trees fully damaged as in 1. Above, the compensation for the 45 trees for 20 years on 50% damages basis works out as follows:

Full Compensation per tree p.a. = Rs.2,500/-

50% = Rs.1,200/-

Compensation for 20 years per tree = Rs.25,000

So compensation for 45 trees for 20 years

On 50% damages basis Rs.11,25,000/-

So the compensation for the 7 Nos fully damages mango trees and 45 Nos 50% damaged mango trees for 20 years is Rs.14,75,000/- /. For the rest of the



trees I am ready to accept the value or the revenue people. So the quantum of compensation amount to be assessed should be based on the above facts and should be fair and without prejudice.

WEB COPY

23. Vide Ex.P9 dated 07.06.2005, the first respondent informed late Mrs.A.Ammasi Ammal that request was considered even though late. Mrs.A.Ammasi Ammal had refused to allow cutting of trees and had objected in 2002 and the compensation for the trees which were yet to be cut was also considered and those trees were still standing.

24. It was stated in the aforesaid communication that since the petitioners did not allow the staff of the first respondent to cut the trees that were still standing to have a sufficient electric clearance as per the law and having accepted to receive compensation defraud by the Revenue Authorities, it was not open for late Mrs.A.Ammasi Ammal to ask for additional compensation. Under these circumstances, the petitioners' mother caused a legal notice dated 19.08.2005 on the respondents.

25. By a reply letter dated 16.09.2005 vide Ex.P11, the first respondent has stated as follows:-

During personal hearing, deliberations took place giving your client the fullest opportunity for establishing her claim in the absence of any evidence. On the request of your client, the matter was sympathetically considered and as a special case taking a liberal view. Power Grid considered payment of compensation for the damages as listed below, as agreed and accepted by your client and this included 02 nos. Palm Trees. 08 Nos.Neem Trees & 02 Nos. Babool Trees, which were not cut despite notice under the Telegraph Act because your client did not allow the tree cutting during the construction of the line and the trees are still standing on your client's land.

Sl.No.	Particulars	Quantity	Remarks
1	Palm trees	02 Nos.	To be cut for safety clearance
2	Neem trees	08 Nos.	To be cut for safety clearance



WEB COPY

Sl.No.	Particulars	Quantity	Remarks
3	Babool Trees	02 Nos.	To be cut for safety clearance
4	Mango trees	07 Nos.	
5	Branches of Mango trees	45 Nos.	
6	Length of five wire barbed wire fencing	30 Mtr.	

During the hearing held on 02.03.2005, it was agreed by your client to allow POWERGRID staff to cut off the trees mentioned at Sl.Nos.1,2 & 3 that are still standing on your client's land and your client also agreed that the assessment made by the revenue authorities is acceptable.

The above trees are to be cut off for safety/sufficient electric clearance as per statute. However, till date the above trees are not allowed to be cut by your client. Therefore, your client may be advised to allow cutting off the above trees to avoid any mishap/untoward incident/accident for which your client would be solely held responsible for.

Therefore, please take notice/intimate/advise your client to allow cutting off the trees that are still standing on her land and the compensation would be released as per the assessment made by the revenue authorities on cutting of the trees.

26. Vide Ex.R2 dated 19.11.2005, a sum of Rs.35,390/- was sent by the first respondent as compensation based on the assessment of the Revenue Authority.

27. This has led to string of communications being exchanged between late Mrs.A.Ammasi Ammal's counsel and the office of the first respondent. Late Mrs.A.Ammasi Ammal filed an estimation dated 04.01.2006 vide Ex.P.14 from a consultant, viz. M/s.Green Star Agri Consultancy. As per Ex.P14, the estimated value of the damages was quantified as Rs.14,76,000 /- as detailed below:-

No. of trees fully cut : 7

Bearing habit : Regular Bearer



Age of the tree when damaged/cut : 10 years

Yield expectation from single tree per year: 120 kgs

Yield expectation from 7 trees /year : 840 kgs

Yield expectation from 7 trees up to 30 years
(i.e.for 20 years) : $840 \times 2 = 16,800$ Kgs

Yield expectation from 7 trees up to 35 years
(i.e.for 5 years) : $90 \times 7 \times 5 = 3,150$ kgs

No.of damaged trees : 45 nos.

Expenses for the use of growth regulators
and pesticides/
Fungicides/per tree per year : Rs.300.00

Expenses for single tree for 5 years : Rs.1,500.00

Expenses for 45 trees for 5 years : Rs.67,500.00

Yield loss from 45 trees for 5 years
 $120 \times 5 \times 45$: Rs/27,000 kgs

Total yield loss from 7 trees : 19,950 kgs

Value of loss in terms of money
@ Rs.30/kg of fruits) : Rs.5,98,500.00

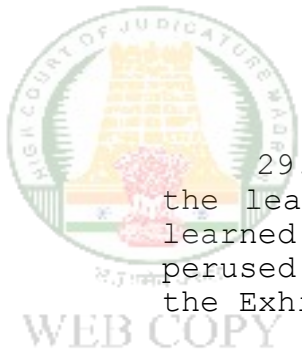
Total yield loss from 45 trees : 27,000 kgs

Value of loss in terms of money
@ Rs.30/kg of fruits) : Rs.8,10,000.00

Total expenses for recovering growth
of damaged trees : Rs.67,500.00

Total loss in terms of money value : Rs.14,76,000.00

28. However, the first respondent vide Ex.P19 dated 19.01.2006, reiterated that the compensation had been paid as per the assessment of the Revenue Authorities and the request of late Mrs.A.Ammasi Ammal to have compensation re-determined cannot be accepted. It is under these circumstances, the Telegraph O.P.No.80 of 2007 was filed before the First Additional District and Session Court, Salem which has culminated in the impugned order dated 08.12.2015. As mentioned above, the said Court has dismissed the case of the late Mrs.Ammasi Ammal.



29. I have heard the learned counsel for the petitioners and the learned counsel for the first to third respondents and the learned Government Advocate for the fourth respondent. I have perused the records, the impugned order of the lower court, and the Exhibits filed in support of this case.

30. Before the Lower Court, the petitioners had filed about 18 Exhibits, some of which has been mentioned above. On behalf of the respondents, only 3 Exhibits were marked. On behalf of the petitioners and respondent, two witnesses each were examined.

31. It is the contention of the petitioners that a very conservative estimate was made in Ex.P.14, viz. yield loss for 7 trees (fully cut) for up to 30 years at 120 kgs per trees (840 kgs per year for 7 trees) and taken only for 20 years (after reducing initial 10 years for growth).

32. For yield up to 35 years, only 90 kgs per year has been applied. For the 45 numbers of trees whose branches were cut, the loss is estimated only for 5 years at 120 kgs per tree. Price of Mango taken is only Rs.30/- per kg.

33. It is submitted that the respondents have neither disputed nor challenged these opinions of the expert and therefore the same needs to be adopted for arriving at a fair and just compensation. Interest to be awarded at reasonable rates (9% adopted by High Court in C.R.P.Nos.863 to 867 of 2005) from the date of cutting of the trees.

34. It is further submitted that in RTI information, value fixed for mango tree was Rs.7920/- for 18 to 20 years old mango tree whereas the value determined in the case of the petitioners' trees are only 10 years old.

35. It was submitted that though this document was not filed before the Lower Court and produced only when this Writ Petition was filed, it is submitted that it is an indisputable document having been given by the first respondent's DGM Power Grid Corporation. This shows that the fixation of Rs.3,000/- per mango tree for the petitioners is totally arbitrary and without any basis.

36. It was further submitted that Ex.P14 Estimation given by PW2 who was an Agri Consultant of Green Star Agri Consultancy was based on estimated yield upto 35 years. The author of Ex.P14 dated 04.01.2006 was a graduate in B.Sc., (Agri.) and that was given only after inspection, after trees were cut in the year 2002. The respondents have not cross examined or contradicted the evidence to discredit the statement of PW2 or Ex.P14.



37. It was submitted that the value fixed by the Revenue Authorities for the yield loss was very low at Rs.30/- per kg of Mango. It was further submitted that the findings in para 26 are completely erroneous by holding that respondents have only paid the compensation as fixed by the Revenue Department and that the authorities who assessed the damages are necessary parties.

38. It was submitted that, there was no assessment by the respondents or Revenue Department as is evident from Ex.R3 dated 28.03.2005. Without any independent assessment, it only follows some circulars/guidelines fixed already when this is similar to land acquisition and the landowner is put to complete loss. The burden was on the respondents to establish that proper assessment was made and a just compensation was paid which they have miserably failed to establish and in those circumstances, Ex.P14 and PW2 evidence ought to have been accepted.

39. The learned counsel for the first to third respondents denied further liability being fastened on it. It is stated that the petition itself was not maintainable for want of necessary party, namely the Revenue Authorities, before the Lower Court. In the counter, it was also further stated that Mango trees (being hybrid variety) were below the line and their height did not cause any danger to the safe passage of electric transmission line and therefore only seven trees were cut during construction and that only branches from 45 trees were chopped.

40. It was further submitted that the Electricity Supply Act and Indian Telegraph Act, do not contemplate payment of compensation for land as there is no transfer of land. It is further submitted that no Tower had been erected in the petitioner's land.

41. It is further submitted that the petitioners' mother herself consented to receive Rs.35,390/- vide Ex.R2 dated 19.11.2005 and therefore the demand in the claim petition was liable to be rejected as both excessive and unwarranted.

42. Since, there was no clarity as to whether any trees were cut in 2002 or only in 2005 after order dated 19.11.2004 was passed by this court in W.P.No.33491 of 2004, vide order dated 04.06.2021, the respondents were asked to furnish the details of the trees cut and document surrounding Ex.P1 Notice dated 23.01.2002 issued under the Indian Telegraph Act, 1885 Sections 10 to 19 read with Section 42 of Electricity (Supply) Act, 1948.

43. The first to third respondents have filed photocopies of the records maintained by them and a Memo dated 30.06.2021. The relevant portion for the Memo reads as under:-

3) The trees in the Petitioners' property were cut



WEB COPY

in the year 2002 for laying of 400 kV Double Circuit Salem - Hosur transmission line which is the subject matter of the present Writ Petition.

4). The value of mango trees cut during the execution of 400 kV Double Circuit Salem - Hosur line was Rs.3,000/- as could be seen from the communication of the Assistant Director of Horticulture, Salem dated 22.10.2003 (Page No. 1 of the typed set filed by the Respondent) and as accepted by the District Collector, Salem vide order dated 28.03.2005 (Page No.114 of the typed set filed along with the Writ Petition and marked as Ex R-3 before the Court below). The compensation paid to the Petitioners' mother includes the value for the mango trees amongst other trees on the basis of assessment made by the Horticulture Department for all the trees which are the subject of notice dated 23.01.2002.

5). It is submitted that irrespective of the age of the Mango tree, amount of compensation paid was Rs.3,000/- per tree in the year 2002. The compensation for cut branches is much less.

6). The rate of Rs.7,290/- per mango tree relates to 400 kV Salem - Dharmapuri Transmission line conceived in the year 2015 in which Petitioners' land is also affected and he had also received compensation at the rate of Rs.7,290/- for the mango trees. The Petitioners cannot compare the rate for mango trees in the year 2014 with that of the rate fixed in the year 2003. Thus, the RTI reply does not help the Petitioners.

44. The petitioners have filed reply to the memo dated 30.06.2021 on 05.07.2021, which reads as follows:-

The petitioners respectfully submit that respondents filed a memo dated 30.06.2021 pursuant to the order of this Hon'ble court order dated 21.06.2021 there by directing the respondents herein to produce the entire file in respect of notice dated 23.01.2002 issued by them to the petitioner's mother late Mr.A.AmmasiAmmal under Indian Telegraph Act, 1885.

The petitioners respectfully submit that the averments made by the respondents that reply dated 02.09.2015 relates to 400 kV Salem - Dharmapuri



WEB COPY

Double Circuit Transmission line conceived by the Corporation during the year 2015 and the quantum of compensation mentioned therein relates to the trees that were cut during that year of the petitioners land is false and incorrect.

The petitioners respectfully submit that except the cutting of the mango trees in the 1st petitioner's land in the year 2002 for the project of the 400KV Palacode -Salem, there has been no other cutting of mango trees that took place in the 1st petitioner's land in the year 2015 for the project 400 KV Salem - Dharmapuri Double Circuit Transmission as stated by the respondents.

45. The memo filed on behalf of the first and third respondents pursuant to the order of this Court dated 21.06.2021, which has been extracted above shows that all the records relating to the number of trees that were cut in 2002 have not been filed.

46. What emerges from a reading of the entire conspectus of facts and circumstances case, is that the petitioners' mother late Mrs.A.Ammasi Ammal an illiterate and rustic person was issued with a notice under Section 10 of the Indian Telegraph Act, 1885 vide Ex.P1 dated 23.01.2002 with a proposal to cut 150 Mango trees (y), 2 Palm trees (y), 3 Neem Trees, and 2 Babool Trees. The said Notice was issued under Section 10 of the Indian Telegraphic Act, 1885 and was acknowledged by Petitioners' mother Late Mrs.A.Ammasi Ammal by affixing her left thumb impression.

47. Strangely, the respondents did not come forward to give any compensation to late Mrs.A.Ammasi Ammal, despite a lapse of two years since Ex.P1. Memo filed on behalf of the first to third respondents indicates that trees were cut in 2002 and thereafter further trees were cut in 2005 after order dated 19.11.2004 was passed in W.P.No.33491 of 2004.

48. Section 42 of Electricity (Supply) Act, 1948 vests the Board (in this case the Power Grid Corporation) with powers of the Telegraph Authority under Part III of Indian Telegraph Act, 1885. Section 10(d) of Indian Telegraph Act casts a liability on the Authority to pay full compensation for any damage to the persons interested.

49. As Authorities who have been given rights to enter upon a private persons land, they should have maintained proper records and paid a fair, just and proper compensation to late Mrs.A.Ammasi Ammal during her life time not only for the trees



that were cut in 2002 but also for the trees that were cut in 2005 subsequent to the hearing held pursuant to the order of this Court in 2004.

50. It is only after an order was passed by this Court on 19.11.2004 in W.P.No.33491 of 2004, the first to third respondents have condescended to consider the request of the petitioners' mother for compensating her.

51. By their letter Ex.P7 dated 04.03.2005, the first to third respondents have agreed to pay compensation for the trees which were yet to be cut. The compensation awarded to the petitioners' mother late Mrs.A.Ammasi Ammal was only for the trees which were allowed to be cut pursuant to the hearing held on 02.03.2005.

52. The compensation determined by the Revenue Authorities was only on 28.03.2005 vide Ex.R.3. The memo filed by the first to third respondents pursuant to a direction dated 21.06.2021 clearly admits that a number of trees would have been cut pursuant to Ex.P1 Notice dated 23.01.2002 but no proper records were filed citing old records are not available. Since the compensation for a sum of Rs.35,390/- paid vide Ex.R.2 is only for the trees that were cut in 2005 and not for the trees which were cut during 2002, the aforesaid compensation is to be held grossly disproportionate. Compensation that was paid to late Mrs.Ammasi Ammal in terms of Ex.R3 dated 28.03.2005 vide Receipt dated 19.11.2005 was only for the trees cut in 2005.

53. After late Mrs.A.Ammasi Ammal came to know that a very low compensation of Rs.35,390/- was to be paid, she was advised to make a revised claim for Rs.18,18,600/- based on an estimation given by one K.Shanmugavel, B.Sc., Agriculture for Green Star Agri Consultancy, Muthampatti, Salem vide Ex.P14 dated 04.01.2006.

54. Late Mrs.A.Ammasi Ammal thereafter filed a revised claim before the first to third respondents. It was rejected. She therefore filed Telegraph O.P.No.80 of 2007 for a sum of Rs.18,18,600/- less amount of Rs.35,390/- paid vide Ex.R2 with interest at the rate of 24% p.a. from 23.02.2002 totally to Rs.35,65,439/-.

55. Thus, it cannot be said that the petitioners accepted the compensation without any objection. There cannot be any waiver or estoppel against the late Mrs A.Ammasi Ammal.

56. The quantification of the petitioner for a sum of Rs.18,18,600/- is as follows:-



Sl. No.	Particulars	Value
1	Mango Trees - 7	Rs.5,98,500/-
2	Babool Trees - 2	Rs. 20,000/-
3	Palm Trees - 2	Rs. 10,000/-
4	Neem Trees - 8	Rs. 8,000/-
5	Branches cut/ damaged from 45 number of Trees	Rs.8,77,500/-
6	Towards occupation of 450 sq.ft. of land	Rs. 60,000/-
7	Cost of work for re-doing 30 pillars- fence	Rs. 33,800/-
8	Amount paid to guar to safeguard for cattles straying into the land due to removal of fence	Rs. 800/-
9	Reduction in the value due to work	Rs.2,00,000/-
10	Loss of consortium	Rs. 10,000/-
Total		Rs.18,18,600/-

57. Sl.Nos.1 and 6 corresponds with the estimated loss in Ex.P.14 dated 04.01.2006. There is a huge variance between Ex.P.14 Estimation given by Green Star Agri Consultancy, Mettur, Salem and the compensation ultimately arrived by the Revenue Authorities and the compensation paid to late Mrs.A.Ammasi Ammal, petitioners' mother vide Ex.R2 - Receipt No.1604 dated 19.11.2005 and Ex.R3 dated 28.03.2005.

58. Compensation claimed by late Mrs.A.Ammasi Ammal in Ex.P14 was highly exaggerated for the number of trees that were cut in 2005. However, it is limited for the trees which were cut after this Court passed vide its order dated 19.11.2004 in W.P.No.33491of 2004 as late Mrs.A.Ammasi Ammal appears to have agreed to receive compensation to be arrived for the trees which were yet to be cut.

59. In Kerala State Electricity Board Vs. Livisha and Others, 2007 (6) SCC 792, the Hon'ble Supreme Court held that there cannot be fixed any formula as there cannot be any hard and fast rule in determining the amount of compensation and that each case is required to be taken on its own merit under Section 10 of Indian Telegraph Act.



60. In para 11, the Hon'ble Supreme Court further held that claim on yield basis is relevant for determining the compensation and approved the multiplier of 8.

61. In order dated 29.03.2016, in K.Natarajan Vs. The District Collector, Dharmapuri District, Dharmapuri and another, in W.P.No.7685 of 2016, the decision of the Hon'ble Supreme Court in Civil Appeal Nos.8319-41 of 2014 was considered.

62. The case regarding the fixation of compensation for fruit bearing trees was remanded back to this Court. This Court had taken up the matter in C.R.P.Nos.863 to 867 of 2005 and others and fixed the multiplier at 25 years and directed compensation to be paid for the yield loss for 25 years.

63. On perusing the records maintained by the first to third respondents, what is evident is that these respondents have not maintained a proper records to show the number of trees that were cut in 2002 pursuant to Ex.P1 Notice dated 23.01.2002 though they admit that trees were cut in 2002. They have also not given any documents to substantiate any exchange of correspondence with the Revenue Authorities in 2002 or soon thereafter when it was proposed to cut large number of trees as indicated in Ex.P1.

64. Therefore, the Court is inclined to assume that the number of trees that were cut in 2002 were in terms of Ex.P1 Notice dated 23.01.2002.

65. If the first to third respondents had chosen to depend upon the Revenue Department for the assessment, it was also incumbent on them to ensure that a proper assessment was made based on a proper and scientific basis. A just compensation should have been paid to the land owner. It was also incumbent on the part of the first to third respondents to have produced records from the Revenue Department to justify the quantum of compensation of Rs.35,390/- paid to the petitioners vide Ex.R2.

66. The compensation has to be a fair, reasonable and a just compensation. Mere acceptance of the amount offered by the respondents by the helpless and illiterate land owner cannot be put against such land owner.

67. They cannot just shrug-off their shoulders saying that their role was over after payment of a compensation of Rs.35,390/- paid to the petitioners vide Ex.R2 of the Revenue Department.

68. It was not only the responsibility of the first respondent Power Grid Corporation to properly assess in a fair,



transparent, equitable manner but also pay a just compensation not only for the trees cut in 2005 but also the trees cut in 2002 for which no records were produced. They cannot simply shift the burden on the Revenue Department who have not seen the extent of loss or take advantage of ignorance and innocence of a rustic village lady. As they have admitted that they have cut trees not only in 2002 but also in 2005, compensation for the trees cut in 2002 is to be paid.

69. The Lower Court also committed grave error. In para 24 of the impugned order though the learned District Judge has recorded that the respondents have not followed the proper procedure and had not placed relevant documents before the Court yet has found fault with petitioners for not impleading the Revenue Authority in the proceedings before the Court. It ought to have decided the sufficiency of the compensation under Sec.16 (3) of the Indian Telegraph Act, 1885.

70. Further, as per Section 10(d) of the Indian Telegraph Act, 1885, "full compensation" is to be paid to all persons interested for any damages sustained by them by reason of the exercise of those powers.

71. The compensation has to be a fair, reasonable and a just compensation. Mere acceptance of the amount offered by the respondents by the helpless and illiterate land owner cannot be put against such land owner.

72. Though value has to be fixed based on the yield and not on the value of the wood recovered, no useful purpose will be served at this distance point of time.

73. The value in Ex.R3 dated 28.3.2005 is abysmally low. Even palm trees yield fruits and the leaves and branches are used in the handicraft industries. These Palm trees are expected to yield for a long period. In rural of Tamil Nadu, produced from the palm trees provide livelihood to people. Income can be gained from the following products which are produced from the fruits, leaves and the branches of the palm trees:-

- i. Palm Jaggery (Organic food)
- ii. Palmyra products (Like seats for Government bus drivers, floor washing brushers, walking stick etc.)
- iii. Palm Nectar (Healthy drink)
- iv. Toys and Pencil boxes



v. Leaves used for thatching mats, basket, fans, hats, umbrella and writing materials.

vi. The fruits are eaten roasted or raw

WEB COPY vii. Ice Apple (palm tree seeds)

74. In my view, the first to third respondents have failed to establish that they have paid a just, fair and a reasonable compensation of Rs.35,390/- to the late Mr.Ammasi Ammal whose interest has been espoused by petitioners as the legal heirs. It cannot be said that a "full compensation" for the purpose of Section 10(d) of the Indian Telegraph Act, 1885 was paid to late Mrs.Ammasi Ammal.

75. Considering the overall facts and circumstances and the fact that late Mrs.A.Ammasi Ammal, petitioners' mother passed away on 19.03.2013 without being satisfied with the compensation award/given by the respondents and considering the age of the petitioners themselves who are fairly themselves advanced age, this Court is inclined to modify the compensation awarded to the petitioners instead of remanding the case back for fresh appraisal of the evidence before the lower authority.

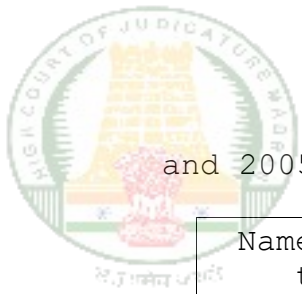
76. Late Mrs.A.Ammasi Ammal in her representation dated 22.09.2004 had stated that 25 Mango trees were fully cut and branches of about 125 Mango trees were partially cut in 2002. Therefore, for awarding compensation, same shall be considered.

77. As per Ex.P1 dated 23.01.2002, 2 Palm trees (Y. and No Y.) were also proposed to be cut though late Mrs.A.Ammasi Ammal had further stated in her representation that 15 Palm trees were cut, it is assumed that only 1 Palm tree (Y) and 1 Palm tree (No. Y) were cut in 2002.

78. Though 3 Neem trees and 2 Babool trees were proposed to be cut but as per Ex.P1 dated 23.01.2002 though late Mrs.A.Ammasi Ammal had further stated in her representation that 8 Neem trees and 10 Babool trees were cut, it is assumed that 3 Neem trees and 2 Babool trees were cut in terms of the Ex.P1 dated 23.01.2002.

79. Pursuant to the order of this Court, the respondents cut 7 Mango trees (fully), branches of 45 Mango trees, 2 Palm trees, 8 Neem trees and 2 Babool trees in 2005 which ought to have therefore been properly compensated.

80. For the loss sustained by their mother late Mrs.Ammasi Ammal, the compensation is to be paid to the petitioners as legal heirs for the following trees only which were cut in 2002



and 2005:-

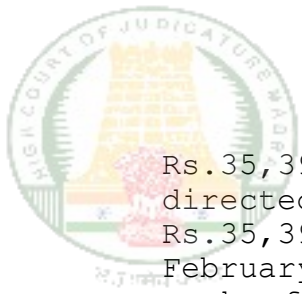
Name of the trees	No. of trees were proposed to be cut as per Ex.P1 dated 23.01.2002	No. of trees cut in 2002	No. of trees cut in 2005	Total (3 + 4)
(1)	(2)	(3)	(4)	(5)
Mango (fully cut)	150	25	7	32
Mango (Branches cut)		125	45	170
Palm "Y"	1	1	2	3
Palm "No Y"	1	1	-	1
Neem	3	3	8	11
Babool	2	2	2	4

81. Though the compensation claimed by the petitioners was highly exaggerated, this Court is inclined to consider a sum of Rs.5,000/- per Mango tree fully cut, a sum of Rs.2,500/- per Mango tree (branches cut), a sum of Rs.2,500/- per Babool tree, a sum of Rs.3,000/- per Neem tree and a sum of Rs.30,000/- for the damages of fencing, for the purpose of determining the compensation to the petitioners.

82. Since no value of the trees based on the yield and number of years has been given, the value for the purpose of compensation is re-quantified as follows:-

Sl. No.	Particulars	No.	Compensation in Ex.R3	Amount
1	Mango Tree (fully cut "Y")	32	5,000 x 32	Rs.1,60,000/-
2	Mango Tree (branches cut "Y")	170	2,500 x 170	Rs.4,25,000/-
3	Palm Tree (Y)	3	5000 x 3	Rs. 15,000/-
4	Palm Tree (No. Y)	1	2000 x 1	Rs. 2,000/-
5	Neem Tree	11	3,000 x 11	Rs. 33,000/-
6	Babool Tree	4	2,500 x 4	Rs. 10,000/-
7	Fencing			Rs. 30,000/-
Total				Rs.6,75,000/-

83. Late Mrs.Ammasi Ammal has already received a sum of



Rs.35,390/-. Therefore, the first to third respondents are directed to deposit a sum of Rs.6,39,610/- (Rs.6,75,000 - Rs.35,390) together with interest at 7.5% per annum from February 2002 till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this order, before the I Additional District Court, Salem.

84. The petitioners are permitted to equally withdraw the aforesaid compensation together with interest, by filing suitable application before the I Additional District Court, Salem.

85. The Writ Petition is disposed with the above observation. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

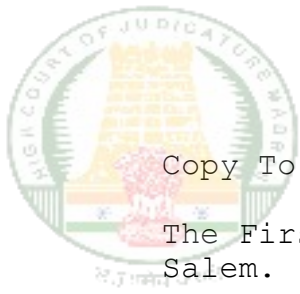
//True Copy//

Sub Assistant Registrar

jen

To

1. The Chairman,
The Power Grid Corporation of India Ltd.,
Plot No.2, Sector 29,
Gurgaon, Haryana - 122 001.
2. The Executive Director,
Power Grid Corporation of India Limited,
Southern Region Transmission System II,
RHQ, Near RTO Driving Test Track,
Singanayakanahalli, Yelahanka Hobli,
Bengaluru - 560 064.
3. The Deputy General Manager,
Power Grid Corporation of India Limited,
400 KV Sub Station, K.R.Thoppur,
Salem District, Salem.
4. The District Collector,
Salem District,
Salem.



Copy To

The First Additional District Court,
Salem.

WEB COPY

+1cc to M/s.Aiyar and Dolia, Advocate, S.R.No.46244

+1cc to M/s.t.Saikrishnan, Advocate, S.R.No.46031

W.P.No.8394 of 2016 and
W.M.P.No.7437 of 2016

SRA (CO)
RGA (06/10/2021)