

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11012 OF 2022

Shobha Bhaskar Jape and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri P. S. Dighe, Advocate h/f Shri V. R. Dhorde, Advocate for
the Petitioners.

Shri K. N. Lokhande, A.G.P. for the Respondent Nos. 1 and 2.

CORAM : SANDEEP V. MARNE, J.

DATE : 20TH OCTOBER, 2022.

FINAL ORDER :

. By this petition, the petitioners assail judgment and order dated 18th October, 2022 passed by the District Judge – 1, Kopergaon in Misc. Civil Appeal No. 25 of 2022 confirming the order dated 22nd July, 2022 passed by the Civil Judge Senior Division, Kopergaon on application below Exhibit 05 in R.C.S. No. 206 of 2021. The injunction is refused *inter alia* on the ground that the only remedy available to the petitioners is to claim compensation. It is common ground that the petitioners cannot statutorily injunct the respondent No. 3 from erecting towers. The only ground pressed before me for challenge to the impugned orders is that the District Magistrate alone is empowered U/Sec. 16 of the Indian Telegraph Act, 1885 to take action and that in the present case the power is exercised by the Sub Divisional Magistrate. The District Judge has recorded a

finding that there is no prohibition in the Act for the District Magistrate to delegate the powers to the Sub Divisional Magistrate.

2. I do not find any error in the orders passed by the District Judge – 1, Kopergaon and the Civil Judge Senior Division, Kopergaon. The petition is devoid of any merits. Same is dismissed without any orders as to costs.

[SANDEEP V. MARNE, J.]

bsb/Oct. 22