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*A.No.1434 of 2023
in CS.DR.No.140545 of 2022*

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R.N.MANJULA, J

The learned counsel for the plaintiffs submitted that he has claimed a sum of Rs. 6,78,37,500/- towards compensation for the high tension lines drawn by the defendants over the property belonging to the plaintiffs. It is submitted by the learned counsel for the plaintiffs that the first defendant has erroneously fixed the guideline value of the property and the 3rd defendant sent a compensation statement through the proceedings in Lr.No.SE/GCC II/CNI/AEE/GNRL/F.400KVLine/D.No.901/2022 dated 05.08.2022 for a sum of Rs.98,26,488/- which is too low and unfair and it does not reflect the fair and just compensation payable to the plaintiff.

2. Despite the said proceedings have been passed in pursuant to the claim petition filed by the plaintiffs on 23.10.2020 and obtained an order in WP.No.228 of 2021 for considering the same by the defendants, they had chosen to file a civil suit instead of challenging the sufficiency of the compensation by way of filing an application before the jurisdictional District Judge as contemplated under Section 16 of the Indian Telegraph Act, 1885.



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However, it is submitted by the learned counsel for the plaintiffs that the Telegraph Act did not expressly exclude the jurisdiction of the Civil Court and hence, they have a right to file a civil suit for claiming compensation. In support of his above contention, he cited the decisions of the Hon'ble Supreme Court held in *M.P.Electricity Board, Jabalpur Vs. M/s.Vijaya Timber Co.*, reported in (1997) 1 SCC 68 and the judgment of the Gujarat High Court held in *Power Grid Corporation of India Limited Vs. Manojbhai Dashrathbhai Patel*. Even the Hon'ble Supreme Court has held that the statute/Indian Telegraph Act gives finality to the orders of the Special Tribunals, the Special Court's jurisdiction must be excluded. It is envisaged under Section 16(3) of the Special Act [The Indian Telegraph Act, 1885].

3. The dispute in respect of the sufficiency of the compensation shall be dealt by the jurisdictional District Judge on an application filed before him in this regard. Without availing the statutory remedy, the plaintiff has filed a civil suit even though he preferred to challenge the compensation awarded by the respondents. The judgment of the Gujarat High Court in paragraph 5.11, it has held as under:-

“5.11 According to me, under Section 16(3) of “the Act, 1885”, District Judge is authorized to consider only the



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*sufficiency of the compensation for any damage sustained to the property. For the entitlement of a compensation for any damage sustained, that too, for full compensation, it has to be determined by the Civil Court and not by the District Judge, as contemplated under Section 16(3) of “the Act, 1885”. Here in the present case, since it is a case of no compensation paid, the remedy of a person, who seeks such compensation, would not lie before the District Judge under sub-section (3) of Section 16 of “the Act, 1885” and ouster of the jurisdiction of the civil Court would, therefore, not apply. I am fortified in my aforesaid view, in view of what is observed in par 15 of the judgment in the case of **Gajendrasinh** (supra), I do not see any limitation in the powers of the Civil Court in exercise of its ordinary civil jurisdiction, to not only direct the telegraph authority to pay the full compensation but also in the process, compute the same itself.”*

4. The above understanding of the Gujarat High Court also would only confirm the view that if the dispute is with regard to the sufficiency of compensation, the aggrieved party has to workout his remedy before the District Judge in accordance with Section 16(3). Only if the entitlement of compensation itself is in dispute, then the party concerned has to invoke the jurisdiction of the Civil Court by way of filing a civil suit.



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5. In the case on hand, the respondents did not conclude that the plaintiffs are not entitled to get compensation. But the compensation fixed by the respondents is not satisfactory to the plaintiffs and hence, they had chosen to challenge the same. The adequate remedy has been contemplated under Section 16(3) of the Indian Telegraph Act for this kind of dispute and hence, the plaintiffs cannot be allowed to file a civil suit by invoking the original side jurisdiction of this Court. Hence, the leave sought by the plaintiffs is rejected. However, the plaintiffs are at liberty to challenge the sufficiency of compensation before the appropriate forum within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the application in A.No.1434 of 2023 stands rejected.

25.08.2023

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