



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

97 WRIT PETITION NO. 12426 OF 2022

KAILAS SHANKAR SURYAWANSHI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
DEPARTMENT OF INDUSTRIES AND OTHERS

...
Advocate for petitioners : Mr. D.R. Jayabhar
AGP for the respondent – State : Ms. Chaitali Chaudhari - Kutti
Advocate for respondent no. 8 : Mr. Girish Rane
...

**CORAM : R.G. AVACHAT &
ABASAHEB D. SHINDE, JJ.**

DATE : 3 NOVEMBER 2025

P. C.:

The petitioners are the owners of agricultural lands mentioned in the writ petition. Their lands have been affected by erection of tower by the respondents no. 7 and 8.

2. Since this is not a case of acquisition of land, the matter is covered by section 10 and 16 of the Indian Telegraph Act, 1885 and the relevant provisions of the Electricity Act, 2003. The matter was referred to respondent no. 4 – Land Acquisition Officer, who determined the amount of compensation to be paid to the petitioners on account of the damage they have suffered due to erection of power grid tower/s on their lands.

3. Respondents no. 7 and 8 have filed affidavit in reply, stating therein that the cheques covering the amount of compensation were tendered to the petitioners. They, however, refused to receive the amount. Be that as it may.

4. For better appreciation, sections 10 and 16 of the Indian Telegraph Act, 1885 are reproduced as under :-

“10. Power for telegraph authority to place and maintain telegraph lines and posts.—*The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property:*

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Central Government, or to be so established or maintained;

(b) the Central Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—*(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or*

obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same."

5. The text of section 10 viz-a-viz section 16 of the Telegraphic Act, 1885, provide a complete mechanism for determination of the amount of compensation towards damage sustained by the affected land owners. If the land owners are

aggrieved by the quantum of compensation, they have a remedy of approaching the District Court for enhancement.

6. Since the petitioners have alternate remedy of approaching the District Court, in view of the said provision i.e. section 16(3) of the Indian Telegraph Act, we relegate the petitioners to avail the same. If such applications are moved by the petitioners, the learned District Judge concerned will decide the same on their merits within a reasonable time and in any case, within a period of 12 months from the date of making of such applications.

7. With these observations, the petition stands disposed of.

[ABASAHEB D. SHINDE]
JUDGE

[R.G. AVACHAT]
JUDGE

arp/