



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 334 OF 2024**

1. Hondu Vithal Gaonkar, Aged 54 years,
H. No. 1463, Santona, Dabal Dharbandora,
Goa, 403406.

... Petitioner

Versus

1. State of Goa, Through Chief Secretary,
Secretariat, Alto Porvorim, Bardez, Goa.

2. The Collector & District Magistrate,
South Goa, Office of the Collector of South
Goa, Mathany Sandanha Complex,
Margao, Goa.

3. The Dy. Collector & SDO,
Dharbandora, Office of the Dy. Collector &
SDO, Dharbandora, Goa.

4. Union of India, Through Secretary,
Ministry of Power, Central Exletricity
Authority, Govt. of India, Sewa Bhavan, R
K Puram, Section – I, New Delhi 110066.

5. M/s. Goa Tamnar Transmission Project
Ltd; through its Project Manager Mr.
Devanand Singh, YC Co Working Space,
3rd floor, Plot No. 94 Dwarka Sec 13, Opp.
Metro Station, New Delhi 110078 and local
office at 1, Sea Breeze Apartments, D. B.
Road, Miramar, Panaji, Goa 403 001.

6. The Village Panchayat of Dharbandora,
Through its Secretary Office of the Village
Panchayat of Dharbandora, Dharbandora,
Goa.

...Respondents

Mr. Jayant Karn, Advocate *for the Petitioners.*

Mr. D. Pangam, Advocate General *with Mr. Neehal Vernekar, Additional Government Advocate for the Respondent nos. 1 to 3.*

Mr. Raviraj Chodankar, Central Government Standing Counsel *for Respondent no. 4.*

Mr. Shivan Desai, Advocate *with Ms. Tahira Menezes, Advocate for the Respondent no. 5.*

**CORAM: ALOK ARADHE, CJ. &
 M. S. SONAK, J.**

DATE: 13th March, 2025

ORAL JUDGMENT *(Per Chief Justice)*

1. Rule. The rule is made returnable forthwith with the consent of the parties and heard finally.

2. In this Writ Petition, the petitioner, *inter alia*, seeks to quash and set aside the Order dated 27.12.2023 passed by the Magistrate under Section 16 of the Indian Telegraph Act, 1885. The petitioner also seeks to quash and set aside the laying of the transmission line that is passing through the petitioner's property and a direction to the respondents to restore the property of the respondents to its original condition. In order to appreciate the grievance of the petitioner, relevant facts need mention which are stated infra.

3. The petitioner, sometime in the year 2014, constructed a farmhouse on an area measuring 44 square metres. Sometime in the year 2015, the Goa-Tamnar Transmission Project (GTTP) was sanctioned. In the exercise of powers under Section 164 of the

Electricity Act, a Gazette Notification dated 28.11.2018 was issued by the Ministry of Power, Central Electricity Authority, came to be notified, wherein the names of the various villagers, towns and tehsils over which the overhead lines covered under the GTTP would pass.

4. According to the petitioner, the power supply to the farmhouse was sabotaged in June, 2022 and cement poles on the boundary of the property were removed. The petitioner submitted a representation on 31.10.2023 to the Deputy Collector of Dharbandora and requested him to shift the alignment.

5. The Deputy District Collector passed an Order under Section 16 of the Indian Telegraph Act, 1885 (hereinafter referred to as 'Telegraph Act'), on 30.11.2023, by which M/s. Goa-Tamnar Transmission Project Ltd., was permitted to exercise the powers under Section 10(d) of the Telegraph Act.

6. The petitioner thereafter filed a Writ Petition on 05.10.2023, namely, Writ Petition no. 914 of 2023, in which the petitioner sought the relief to quash and set aside the proposed laying of a transmission line through the property of the petitioner. The aforesaid Writ Petition was disposed of by a Division Bench of this Court by an Order dated 12.12.2023 with the liberty to the petitioner file his written objections before the Magistrate and the Magistrate was directed to decide the

objections in terms of Section 16 of the Telegraph Act and to communicate the decision to the petitioner within 15 days from passing the order. In compliance of the aforesaid order, the Magistrate by an Order dated 15.12.2023, rejected the objections preferred by the petitioner. The respondent, no. 5 on 14.03.2023, commenced the construction of a steel tower foundation on the petitioner's property. Hence, this petition.

7. Learned Counsel for the petitioner submitted that the impugned Notification dated 28.11.2018 does not authorise the respondents to lay down the overhead lines over the Village Dharbandora as specifically, in serial no. 3 of the Notification, the name of the Village is not mentioned. It is further submitted that the electricity line is being laid in contravention of the order dated 07.04.2022 passed by the Supreme Court in case of **T. N. Godavarman Thirumulpad vs. Union of India & Ors.**¹. Learned Counsel for the petitioner during the course of submission has produced two pages which are titled as 'Procedure for obtaining authorization under Section 164 of the Electricity Act 2023 and has submitted that the authorization under Section 164 of the Act has been obtained in violation of the procedure mentioned in the two pages produced by the petitioner.

¹ Writ Petition(s) (Civil) No. 202/1995

8. On the other hand, the learned Advocate General, at the outset, has submitted that the issue involved in the Writ Petition is no longer res integra and the issue concerning the validity of laying down of the very said transmission line has been adjudged by a Division Bench of this Court in **Yeshwant Hari Gawas and Ors. vs. Union of India, Through Chief Secretary**². It is pointed out that the contention urged by the petitioner that the name of the village is not mentioned in the Notification is factually incorrect as the name of the village of the petitioner, namely, Dharbandora, has been mentioned in the Notification at serial no. 2.6. It is contended by the learned Advocate General that the direction contained in the order dated 07.04.2022 passed by the Supreme Court in **T. N. Godavarman Thirumulpad vs. Union of India** (supra), the alignment of the line and the sub-station was required to be changed and therefore the name of the village of the petitioner is mentioned in paragraph 2.6 of the Notification. It is also contended that at the stage of issue of authorisation, the authority is not required to mention the route on which the line will pass, and the land will be affected. It is also pointed out that the petitioner had filed a Writ Petition no. 914 of 2023 seeking a similar relief. However, the aforesaid Writ Petition no. 914 of 2023 was disposed of with the liberty to the petitioner to raise objections before the Magistrate in the proceedings under Sections 10 and 16 of the Telegraph Act. Therefore, the instant Writ Petition is barred on the

² 2024 SCC OnLine Bom 3104

principles of constructive res judicata. Learned Advocate General, however, fairly submits that the petitioner may be entitled to claim compensation.

9. Learned Counsel for respondent no. 5 submitted that the sub-station has already been commissioned on the land of the petitioner and one line has already been energised whereas other two lines are deemed to be commissioned. It is therefore submitted that no relief as sought by the petitioner in this Writ Petition can be granted at this point of time.

10. We have considered the rival submissions on both sides and perused the record. At the outset, it is pertinent to note that the issue about validity of laying down the transmission lines of the Goa-Tamnar Transmission Project was dealt with by a Division Bench of this Court in **Yeshwant Hari Gawas and Ors. vs. Union of India, Through Chief Secretary** (supra). The Division Bench has examined the issue with regard to the validity of an action of respondents in laying down the transmission lines in the Goa-Tamnar Transmission Project and has upheld its validity. The aforesaid issue, therefore, is no longer res integra.

11. It is also pertinent to note that the petitioner himself had filed a Writ Petition, namely Writ Petition No. 914 of 2023, in which the

petitioner had challenged the validity of the provisions of Section 68(1), 164 and 165 of the Electricity Act and the validity of Sections 10, 11 and 12 and other provisions of the Telegraph Act. The petitioner in Writ Petition no. 914 of 2023 had also sought the relief of permanently restraining the respondents from entering, erecting electric poles or towers, or doing any other work or passing high tension lines over the property.

12. The aforesaid Writ Petition was disposed of by Division Bench of this Court by an Order dated 12.12.2023 giving liberty to the petitioner to approach the Magistrate. Therefore, it is evident that the reliefs claimed in the instant petition except relief with regard to challenge to the order passed by the Magistrate under Section 16 of the Telegraph Act are barred on the principles of constructive res judicata or principles analogous thereto.

13. It is pertinent to note that the petitioner has not made any submission on the issue of validity of the order dated 27.12.2023 passed by the Magistrate under Section 16 of the Act. There was a change in the transmission line alignment as the respondent no. 3 was required to comply with directions of Supreme Court dated 07.04.2022 passed in **T. N. Godavarman Thirumulpad vs. Union of India** (supra). Therefore, there was a change of alignment. The name of the village of the petitioner finds place in the Notification.

14. Even otherwise, in view of the law laid down by the Division Bench of this Court in **Vivek vs. State Government of Maharashtra**³, it was not necessary for the respondents to have provided the details of the route over which the line would pass as it is not possible to finalise the route at the time of issue of authorization.

15. In the absence of any submission about the challenge to the order passed under Section 16 by the Magistrate, we do not find any ground to interfere with the order dated 27.12.2023. For another reason, no relief can be granted as the project has already been commissioned and is functional. The records show that only a small portion of the petitioner's property is being affected. Based on the contentions raised, no case is made out to stall the project conceived in public interest or to direct any changes in alignment after the project is complete and commissioned. Needless to state that the petitioner shall be entitled to seek compensation in accordance with law.

16. Accordingly, the petition is disposed of.

M. S. SONAK, J.

CHIEF JUSTICE

³ 2012(4) Mh.L.J. 625