PRAJAKTA SAGAR VARTAK
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Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 268 OF 2025

Santaji Hanmant Shinde ...Petitioner
Vs.
WRSR Power Transmission Ltd. & Ors. ...Respondents

Mr. Harsh P. Dedhia for the Petitioner.
Mr. Vikram Nankani, Senior Advocate with Mr. Nitesh Bhutekar, Mr. Kshitija Wadatkar, Ms. Anita Irani, Mr. Vikrant Khare i/b. Kshitija Wadatkar & Associates, for Respondent No.1.
Mr. A. I. Patel, Addl. Govt. Pleader with Ms. P. N. Diwan, AGP for the State.

CORAM: G. S. KULKARNI & ADVAIT M. SETHNA, JJ.
DATE: 02 APRIL 2025.

P.C.

1. Compliance affidavit of Mr. Sanjeev Kumar Singh, authorized representative of respondent no.1 in respect of the order dated 03 March 2025 is placed on record.

2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:-

> "a. Rule be issued.
>
> b. This Hon'ble Court be pleased to pass appropriate order thereby directing Respondent No.3 to comply with GR issued by Department of Industry, Energy and Labour Maharashtra Government, bearing No. 2021/ 170/ Energy-4 dated 01.12.2022.
>
> c. This Hon'ble Court be pleased to pass appropriate order thereby directing Respondent No.3 to calculate and intimate the

compensation of fruit trees on plot bearing No. 721, village Pimprad, Tehsil Phaltan, Satara in accordance with the clause mentioned in GR issued by Department of Industry, Energy and Labour Maharashtra Government, bearing No.2021/ 170/ Energy-4 dated 01.12.2022.

d. This Hon'ble Court be pleased to pass appropriate order thereby directing Respondent No.3 to calculate and intimate the compensation of residential house on plot No.721, village Pimprad, Tehsil Phaltan, Satara in accordance with the clause mentioned in GR issued by Department of Industry, Energy and Labour Maharashtra Government, bearing No.2021/170/ Energy-4 dated 01.12.2022.

e. This Hon'ble Court be pleased to pass appropriate order thereby directing Respondent No.3 to calculate and intimate the compensation of land upon which the towers will be erected on plot No. 721, village Pimprad, Tehsil Phaltan, Satara in accordance with the clause mentioned in GR issued by Department of Industry, Energy and Labour Maharashtra Government, bearing No.2021/ 170/ Energy -4 dated 01.12.2022.

f. Pending the hearing and final disposal of present Petition, this Hon'ble Court be pleased to direct Respondents not to commence any work with regards to erection of transmission towers on plot No. 721, village Pimprad, Tehsil Phaltan, Satara.

g. Pending the hearing and final disposal of present Petition, this Hon'ble Court be pleased to direct Respondents not to take any coercive steps with regards to erection of transmission towers on plot No.721, village Pimprad, Tehsil Phaltan, Satara."

3. On 03 March 2025 after hearing learned counsel for the parties, we passed a detailed order. The said order is required to be noted which reads thus:-

"1. We find from the record as also from the affidavits which are filed in the present proceedings that there is a lack of basic compliance for want of a notice being issued to the petitioner so as to inform the petitioner as how much of the petitioner's land and which portion of the same would affected by the works which should be undertaken by respondent no.1 of laying down the High Tension electricity lines. When we posed a query as to whether any such notice was issued, our attention was drawn to the paragraph 6 of the reply affidavit as filed by the State Government to indicate that there was a meeting which was held with the concerned Farmers/Agriculturist in which the issues were discussed, that the

land would be affected by High Tension Lines and accordingly, a panchanama would be also carried out. We do not find that holding of such meeting would fulfill the basic requirement of a notice which any principle of law would mandate to be an elementary requirement.

2. We are of the clear opinion that unless the persons whose lands are affected are issued a proper notice with appropriate description of the manner in which the works in question would be undertaken and the actual area of their land being affected, only on a specific notice to that effect could things proceed. This also as much would depend on such notice and the subsequent panchanama which would be undertaken by the authorities and the proposed works.

3. In the present case, however, without such notice a panchanama is carried out and surprisingly there are two panchanamas. The first panchanama is dated 1 March 2024 which is a joint panchanama in respect of Survey No.121, 122 and 123. The petitioner is concerned with land which is Survey No.127. As the petitioner has made a grievance that there is a specific panchanama in respect of the petitioner's land which is dated 30 September 2024 annexed at page 201 of the reply affidavit filed by the State Government. According to the petitioner, such panchanama is held in the presence of Agricultural Officer, which was not the case in respect of the prior panchanama dated 1 March 2024.

4. We have perused this panchanama which prima facie indicates that there are about 800 trees and some bigger trees also. Mr. Nankani, learned Senior Counsel for the Appellant has contended that there is a subsequent plantation which is included in such panchanama. Be that as it may, as the State Government has relied on panchanama, it is for the State Government to consider such appropriate position. However, what we need to hear from respondent no.1 is the actual area which respondent no.1 would desire to utilize from the petitioner's holding in Survey No.721.

5. We, accordingly, direct that within a period of one week from today an appropriate notice be issued to the petitioner so that the petitioner is informed of the actual area which is being affected and the manner in which it is affected. The notice should also indicate the extent of the High Tension Lines which would actually go through petitioner's land and the area which would be affected.

6. Let this be undertaken on or before the adjourned date of hearing as also the same be placed on record. Till the adjourned date of hearing, the respondent no.1 is directed not to undertake any work insofar as the petitioner's land is concerned.

7. The officers of the State Government are also directed to

> take appropriate steps as the law would mandate including steps to be taken as per Government Resolution dated 1 December 2022 and place a further affidavit on record. List on 17March2025."

4. Learned counsel for the petitioner has drawn our attention to paragraph 7 of the said order in regard to the applicability of Government Resolution dated 01 December 2022. Learned counsel for the petitioner has pointed out to us that although there are two panchanamas, there is a further requirement as contemplated under clause (5) of the said Government Resolution which is in regard to the description of the trees which are standing on the said land. Clause 5 of the said G.R. reads thus:-

> "5) As regards fruit bearing trees, while drawing up the 'Moka' panchanama in the presence of the Taluka Agricultural Officer/ Horticultural Officer, the value per tree shall be determined by taking into consideration the aspects viz. the number of fruit bearing trees, girth of the trunk, remaining age of a tree in future, average annual produce and income received therefrom etc. and on the basis of the same, valuation of the total number of trees which may get damaged shall be got determined from the Taluka Agricultural Officer/ Horticultural Officer as per the prevailing policy of the Agriculture/ Horticulture Department and accordingly, the concerned Transmission Licence Holder Company shall pay the compensation to the concerned Farm/Land owner from out of their revenue."

5. In paragraph 7 of the aforesaid order passed by us that we had directed the officers of the State Government to take appropriate steps as the law would mandate including steps to be taken as per the Government Resolution dated 1 December 2022, it was incumbent on the concerned officers undertaking panchanama to set out the relevant information in

regard to the said G.R. and more particularly clause 5 on which the learned counsel for the petitioner has made a grievance of there being no specific recording. We are informed that the respondents are likely to commence work on the petitioner's land and they would remove the trees and disturb the status-quo as on date, we accordingly permit the petitioner to make an application by tomorrow to the concerned officer in regard to the concern of the petitioner on clause (5) of the G.R. Inspection be undertaken by 04 April 2025 at 02.30 p.m. and let an appropriate report in that regard be furnished to the petitioner and the respondents. Let this process be undertaken within a period of four days from today. All contentions of the parties in that regard are expressly kept open.

6. Mr. Nankani, learned senior counsel for respondent no.1 has drawn our attention to the provisions of Section 16(4) of the Indian Telegraph Act, 1885 which provides for a remedy to the petitioner to approach the Court in the event the petitioner is not satisfied with the amount of compensation which would be granted. Section 16(4) reads thus:-

> "(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested arc 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."

7. In this view of the matter, in our opinion, further adjudication of the petition is not called for. The petitioner has an alternate remedy of approaching the Court as per the provisions of Section 16(4) of the petitioner is aggrieved qua the compensation being awarded. Insofar as the petitioner's grievance of non-compliance of clause (5) of the G.R. dated 01 December 2022 is concerned, we have already addressed the said issue and have passed the aforesaid orders.

8. In this view of the matter, we dispose of the petition by the following order:-

ORDER

i. The petitioner is at liberty to make an application in terms of his grievance under clause (5) of the Government Resolution dated 01 December 2022. Let the same be made by tomorrow i.e. 03 April 2025.

ii. The appropriate steps in that regard be taken within three days after making such application.

iii. All contentions of the parties in that regard are expressly kept open.

iv. Needless to observe that after the exercise of the inspection as directed hereinabove which needs to be completed within three days of the petitioner making an application, respondent no.1 shall be free to proceed with the public works in question.

v. The remedy of the petitioner to dispute the compensation in the event the petitioner is so aggrieved is expressly kept open, namely, to avail of the remedy as provided for under Section 16(4) of the Indian Telegraph

Act, 1885. On such proposed proceedings, if any, all contentions of the parties are expressly kept open.

vi. Disposed of in the aforesaid terms. No costs.

9. Parties to act on authenticated copy of this order.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI, J.)**