

GAHC010128562025



2026:GAU-AS:1413

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/80/2025

M/S POWER GRID CORPORATION OF INDIA LTD.
A GOVERNMENT OF INDIA ENTERPRISE, HAVING ITS SUB-STATION AT
SILCHAR IN THE DISTRICT OF CACHAR AND IS REPRESENTED BY ITS
AUTHORIZED SIGNATORY SHRI S. RAMAMOHANA CHARY, SON OF
LATE S. RANGA CHARYA, RESIDENT OF 132 KV POWERGRID SUB
STATION, BADARPUR GHAT, BADARPUR- 788803, DISTRICT- HAILAKANDI,
ASSAM.

VERSUS

ON THE DEATH OF ABDUL KHALIQUE, HIS LEGAL HEIRS
NAMELY,

1.1:NIJAMUDDIN LASKAR
S/O LATE ABDUL KHALIQUE LASKAR
RESIDENT OF VILLAGE- KILLARBAKH
P.O.- JAMARIA
P.S.- RAMNATHPUR
IN THE DISTRICT OF HAILAKANDI
ASSAM.

1.2:MD. ROFIKUDDIN LASKAR
S/O LATE ABDUL KHALIQUE LASKAR
RESIDENT OF VILLAGE- KILLARBAKH
P.O.- JAMARIA
P.S.- RAMNATHPUR
IN THE DISTRICT OF HAILAKANDI
ASSAM

Advocate for the Petitioner : MR G N SAHEWALLA, MS T J SAHEWALLA,MD ASLAM,MS. S.
TODI,MR M SAHEWALLA

Advocate for the Respondent : ,

**BEFORE
HON'BLE MRS. JUSTICE MITALI THAKURIA**

Date on which judgment is reserved : **06.01.2026**

Date of pronouncement of judgment : **04.02.2026**

Whether the pronouncement is of the operative part of the judgment? : N/A.

Whether the full judgment has been pronounced? : Yes.

JUDGMENT & ORDER (CAV)

Heard Mr. G.N. Sahewalla, learned Senior Counsel assisted by Mr. M. Sahewalla, learned counsel for the petitioner. Also heard Mr. F.U. Barbhuiya, learned counsel appearing for the respondents.

2. This petition under Article 227 of the Constitution of India is filed by the petitioner namely, M/s. Power Grid Corporation of India Ltd., being aggrieved by the impugned dated Judgment 21.09.2022, passed by the Learned District Judge, Hailakandi in Misc. (P.G.) Case No. 86/2006, in a petition filed by the respondent under Section 10/16 of the Indian Telegraph Act, 1885, read with Section 42 / 51 of the Indian Electricity Act, 1910 and under Section 23/24 of the Land Acquisition Act, 1894.

3. The brief fact of the present petition is that the petitioner is a Government

of India Enterprise formed in the year 1991 in pursuance to a decision by the Government of India to have a separate organization with regard to transmission of electricity. Initially, the petitioner was named as the National Power Transmission Corporation (NPTC) and subsequently its name was changed to Power Grid Corporation of India Ltd. The petitioner Corporation is a company registered under the Companies Act, 1956. The petitioner corporation is engaged with the responsibilities of construction, operation and maintenance of power transmission line throughout the country to form a National Power Grid, so as to mitigate the power crisis. In pursuance to the said object, the petitioner corporation undertook to construction of the 132 K.V. power transmission line from Badarpur, Assam to Bhairabi, Mizoram in the Hailakandi district.

4. It is the case of the petitioner that in exercise of power vested under Sections 10 to 19 of the Indian Telegraph Act, 1885 vide Gazette Notification and vide authority extended by the Deputy Commissioner, Hailakandi vide memo dated 07.02.1997, the petitioner Corporation constructed transmission tower for laying down power lines from Badarpur, Assam to Bhairabi, Mizoram and in course of the aforesaid work, the petitioner corporation constructed transmission tower LOC. Nos. 243 to 244 and also stringed on the said towers. In the process, damage was caused to some plants and trees of the private respondent and accordingly, assessment of surface damage compensation of Rs. 5,179/- was made by the Revenue Authority, Hailakandi which was paid by the petitioner through cheque and was accepted by the respondent in presence of his own witnesses. But to utter surprise of the petitioner, after more than 7 years, in the year 2006, without any proper justification, the respondent filed an application before the learned District Judge, Hailakandi under Section 10/16 of

the Indian Telegraph Act, 1885 read with Section 42/51 of the Indian Electricity Act, 1910 and under Section 23/24 of the Land Acquisition Act, 1894, claiming compensation to the tune of Rs.1,85,57,000/-, which was registered as Misc. Case No.86/2006. In the aforesaid petition, it was alleged that some trees were cut and removed and the petitioner was asked to shift his residence which he had accordingly, done. However, the authorities did not record the loss sustained. In the petition, no explanation or reasons, whatsoever were cited for such delay in filing the application and the claim of damages was imaginary and exorbitant.

5. On receipt of notice of the aforesaid case filed by the respondent, the petitioner filed its written objection before the learned District Judge, Hailakandi, denying the statements and claims made by the respondent. Further, the plea of limitation was specifically taken. It was pleaded by the petitioner in the written objection that the compensation of Rs. 5,179/- as assessed by the Revenue Authority, Hailakandi was duly accepted by the respondent and that there were neither any residence nor any valuable trees and it is pleaded by the present petitioner that the claim was made by the respondent with ulterior motive to make wrongful gain.

6. It is stated by the petitioner that the respondent had adduced evidence as the sole witness and the learned District Judge was pleased to frame the issue as to whether the claim petition was maintainable and whether the petitioner was entitled to get the enhanced surface damage compensation at the enhanced rate under the Indian Telegraph Act, 1885. The learned District Judge accepted the claim of the respondent regarding enhancement and came to a finding that the assessment made was not adequate and vide judgment dated

03.12.2011, an amount of Rs. 1,61,490/- was awarded to be paid by the petitioner within 60 days, failing which the award shall carry interest @ 6% p.a. till the payment is made. Being aggrieved by the aforesaid Judgment dated 03.12.2011, the petitioner filed an application under Article 226 of the Constitution of India before this High Court, which was numbered as W.P.(C) No 6097/2012 and after hearing the parties, vide common judgment and order dated 08.08.2019, set aside the judgement dated 03.12.2011 and remanded back the matter to the Court of learned District Judge, Hailakandi for fresh consideration by giving a finding in respect of the fact that there exists a dispute between the parties.

7. It is the case of the petitioner that as per the direction of this Court dated 03.12.2011, passed in W.P.(C) No 6097/2012, both sides appeared before the learned trial Court and the learned Court below, after hearing the parties based on the pleadings on record, vide its judgment dated 21.09.2022, awarded an exorbitant sum of Rs 38,56,500/-, in favour of the respondent, which is challenged in the present petition.

8. Appearing for the petitioner, Mr. G.N. Sahewalla, learned Senior Counsel submitted that the impugned judgment dated 21.09.2022 is bad in law in-as-much as, the Learned Court below acted on the basis of surmises and conjectures with regard to the rates of the trees/crops, as projected by the respondent. Furthermore, the calculation of the years that a tree would be giving fruit had no basis. It is further submitted that the claim of the respondent is also barred by limitation in as much as, the stringing operation was completed in 1999 and payment of the assessed amount of Rs. 5,179/- was received without any protest whereas, the claim petition was filed in 2006. The learned

District Judge erred in law as well as in facts in declining to give a finding on the specific point of limitation pleaded and urged by the petitioner in the written objection as well as in the argument. The learned Senior Counsel for the petitioner also submitted that the learned District Judge erred in law as well as in facts in fixing the rate of compensation on the date of the judgment and not at the time of the alleged damage and sufficient time had passed during the intervening period in which the rates have gone high. The Court below had also failed to appreciate that the claims made in the petition were mostly imaginary and without any basis and which were otherwise highly inflated and exorbitant. More so, there is absolutely no discussion in the said order on the specific objections raised by the petitioner in its written objection and the impugned order was passed in a most mechanical manner without any application of mind and as such the impugned order is absolutely unreasonable, arbitrary, illegal and capricious, which is passed in gross violation of the statutory regulations in force. Under such facts and circumstances, it was wholly improper on the part of the Learned District Judge to have passed the impugned order.

9. In support of his submission, Mr. G.N. Sahewalla, learned Senior Counsel for the petitioner has relied upon the following decisions of the Hon'ble Apex Court:

(i) The Kerala State Electricity Board, Trivandrum vs. T.P. Kunhaliumma reported in ***(1976) 4 SCC 634;***

(ii) Addl. Spl. Land Acquisition Officer vs. Thakoredas Major and others reported in ***(1997) 11 SCC 412; &***

(iii) B & T AG vs. Union of India reported in ***(2024) 5 SCC 358.***

10. But while arguing the case by Mr. G. N. Sahewalla, learned Senior Counsel

he basically emphasised on the point of limitation and submitted that the learned District Judge, Hailakandi had passed the order enhancing the service damages as stated above vide its judgment and order dated 03.12.2011 passed in Misc.(P.G.) Case No. 86/2006 without considering the fact that the said case was barred by limitation as stringing operation was completed in the year 1999 and the payment of the assessed amount was also received by the respondent without any protest. Thus, after 7 years of the order, the claim petition was filed by the respondent which was barred by limitation. But the learned District Judge did not frame the issue on the point of limitation and without making any discussion to that effect had passed the order inspite of the fact that the petitioner took the specific plea in the written objection regarding the limitation stating that the case is barred by law of limitation.

11. Further he submitted that aggrieved to the said order, the petitioner also filed a writ petition, being WP(C) No. 6097/2012 and after hearing the parties, this Court vide order dated 08.08.2019 had set aside the judgment dated 03.12.2011 and remand the matter back to the learned Trial Court for fresh consideration. But, even after remand of the case, the learned District Judge again passed a judgment and order awarding exorbitant amount of Rs.30,56,500/- in favour of the respondent.

12. In the said order of WP(C) No. 6097/2012, this Court specifically dealt with the issue of limitation in paragraph 6 of the said judgment and further directed the learned District Judge to dispose of the matter keeping in view the observation made in the said order.

13. But even after remand of the case by this Court with a direction for fresh disposal, the learned District Judge, Hailakandi did not frame the issue of the limitation and dispose of the case only on the basis of sole testimony of the

respondent by awarding an exorbitant award in favour of the respondent.

14. Mr. Sahewalla, learned Senior Counsel citing the judgment of the Hon'ble Supreme Court in the case of **The Kerala State Electricity Borad, Trivndrum Vs. T.P. Kunhaliumm** reported in **(1976) 4 SCC 634** and submitted that the law of limitation will apply to any petition or application filed under any act to a Civil Court.

15. Mr. Sahewalla, learned Senior Counsel accordingly submitted that inspite of the specific plea taken in the W.S. filed by the petitioner and inspite of the direction passed by this Court to dispose of the matter wherein it is specifically observed that the petitioner took the plea of limitation, the learned District Judge, Hailakandi had passed the order without even framing the issue of limitation. Accordingly, Mr. Sahewalla, learned Senior Counsel submitted that it is a fit case to be remanded with a direction to the learned District Judge, Hailakandi to frame the issue on the point of law of limitation and after giving an opportunity for hearing to both the parties the matter may be disposed of.

16. Mr. Sahewalla, learned Senior Counsel appearing for the petitioner also submitted that a Coordinate Bench of this Court had passed similar nature of order in CRP No. 83/2024 dated 06.11.2024 and CRP No. 115/2024 dated 08.04.2025 wherein similar direction is given to the learned Trial Court and accordingly the order of remand was passed directing the learned Trial Court to frame the issue of limitation and to dispose of the matter.

17. The judgment of the co-ordinate Bench relied by the petitioner in CRP No. 115/2024 wherein in para 9 of the said judgment it has been held as under:---

"9. In the case of "Noharlal Verma v. Distt. Coop. Central Bank Ltd.," reported in "(2008) 14 SCC 445" Hon'ble Supreme Court has held as under:- "32. Now, limitation goes to the root of the matter. If a suit, appeal or application is barred

by limitation, a court or an adjudicating authority has no jurisdiction, power or authority to entertain such suit, appeal or application and to decide it on merits. Page No.# 6/7 33. Sub-section (1) of Section 3 of the Limitation Act, 1963 reads as under: "3. Bar of limitation.—(1) Subject to the provisions contained in Sections 4 to 24 (inclusive), every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed although limitation has not been set up as a defence." (emphasis supplied) Bare reading of the aforesaid provision leaves no room for doubt that if a suit is instituted, appeal is preferred or application is made after the prescribed period, it has to be dismissed even though no such plea has been raised or defence has been set up. In other words, even in absence of such plea by the defendant, respondent or opponent, the court or authority must dismiss such suit, appeal or application, if it is satisfied that the suit, appeal or application is barred by limitation."

18. Mr. F.U. Barbhuiya, learned counsel appearing for the respondents on the other hand, submitted that in the claim petitions it was specifically mentioned that an assurance was made by the District Administration along with the officials of the petitioner Corporation that the respondents would be compensated as per the law and to the full satisfaction of the claims raised by the claimants/ respondents. Even after such assurance and on various representations, the petitioner Corporation failed to compensate and as such though the amount assessed by the Revenue Authority was accepted but being dissatisfied with the assessment, the claimants/respondents rightly filed the respective petitions for compensation.

19. Mr. Barbhuiya, learned counsel raised the issue that the petitioner after filing the written statement never appeared before the learned District Judge, and thus, the case proceeded ex-parte and even after the direction of this Court, the petitioner did not adduce any evidence and accordingly the learned Trial Court had rightly passed the order.

20. Mr. Barbhuiya, learned counsel also submitted that in the order passed by

the learned District Judge in Misc.(P.G.) Case No. 86/2006 dated 21.09.2022 had also made discussion on the issue of maintainability under issue No.2 and thus, it cannot be stated that the issue of maintainability was not discussed or decided by the learned District Judge, Hailakandi while passing the order.

21. Mr. Barbhuiya, learned counsel also submitted that this Court while exercising the supervisory jurisdiction under Article 227 of the Constitution had limited jurisdiction and thus, the petitioner may be directed for withdrawal of the present petition and may approach the learned District Judge, Hailakandi with an appropriate application for review/recall/modification of the judgement and order dated 03.12.2011 passed in Misc.(P.G.) Case No. 86/2006.

22. In that context, Mr. Barbhuiya, learned counsel also relied on a decision of a Coordinate Bench of this Court in CRP No. 51/2025 wherein in the similar set of circumstances the Coordinate Bench of this Court had directed the petitioner for withdrawal of the petition with a liberty to approach the learned Trial Court if it is necessary for recall/review/ modification of the order passed by the learned Trial Court. Accordingly, he submitted that similar direction may be given to the present petitioner.

23. I have heard the submissions made by the learned counsel for the parties and I have also perused the case records and the orders passed by the learned Trial Court and the order passed by this Court in WP(C) No. 6097/2012.

24. From the records it is seen that the issue of limitation specifically raised by the learned counsel for the petitioner while filing the W.S. and more particularly, in para 10 of the written objection filed by the opposite parties. But inspite of the said specific plea the learned District Judge, Hailakandi did not frame separate issue of limitation and had disposed of the matter. Further, it is seen

that in the writ petition, this Court passed an order directing the learned District Judge to dispose of the matter keeping in view the observation made in the said order.

25. On perusal of the order passed in WP(C) No. 6097/2012, it is seen that the issue raised by the petitioner on account of limitation was also discussed in the said order and accordingly directed the learned District Judge to dispose of the matter with the observation made in the said order.

26. It is a fact that neither of the parties adduced their evidence after remand of the case in pursuance of the order passed in said WP(C) No. 6097/2012.

27. On perusal of the order passed in the Misc.(P.G.) Case No. 86/2006 dated 21.09.2022, it is seen that the learned District Judge, Hailakandi had framed the issue wherein the issue of maintainability is also framed as issue No.2, but it is seen that while discussing the issue, it is only observed that the petitioner did not adduce any evidence nor it was specifically pleaded in the written statement as to how the case is not maintainable. But, there is no discussion of limitation which was specifically raised by the petitioner at the time of filing their W.S.

28. Further it is admitted that compensation was paid to the respondent in the year 1999 and the claim petition was filed before the learned District Judge, Hailakandi in the year 2006 i.e., after 7 years of the satisfaction of the compensation to the respondent. At the same time, it is also seen that a definite plea was taken on the point of limitation in the W.S. But inspite of the remand of the case from this Court, the learned District Judge, Hailakandi failed to frame the issue on limitation, though the matter was remanded for fresh disposal with the observation made in WP(C) No. 6097/2012.

29. It is also a fact that initially the case proceeded ex parte against the

petitioner but it cannot be denied that there was specific plea in the W.S. but inspite of that the learned District Judge failed to frame the issue on limitation wherein it is seen from the record itself that the misc case was filed after 7 years of satisfaction of compensation.

30. The case may be proceeded ex parte against the petitioner, but it is the duty of the Court to frame the issues considering the pleadings of the parties wherein, a specific plea of limitation was pleaded by the petitioners in their W.S.

31. Under the given facts and circumstances on record and also in view of the law laid down by the Hon'ble Supreme Court, the impugned order dated 21.09.2022 passed in Misc (P.G.) Case No. 86/2006 is hereby set aside and quashed.

32. The matter is hereby remanded back to the Court of learned District Judge, Hailakandi to frame the issue on the point of limitation and giving an opportunity of hearing to both the parties along with an opportunity to adduce evidence, if required and thereafter, the case will be decided afresh.

33. As the matter pertains to the year 1999, the learned District Judge, Hailakandi is hereby directed to make all endeavour to dispose of the matter within a reasonable period of time.

34. With the above observation and direction, this petition stands disposed of.

JUDGE

Comparing Assistant

Manoranjana
Barman



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Manoranjana Barman
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