

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

W.P.A. 9886 of 2026

Messrs. Mining Associates
Vs.
The State of West Bengal & Ors.

For the Petitioner

: Mr. Dyutiman Banerjee
Mr. Chiranjib Sinha
Mr. Anubhav Khastagir

For the WBSETCL

: Mr. Sumit Kr. Panja
Mr. Sumit Ray

Heard on

: 06/05/2026

Judgment on

: 06/05/2026

Hiranmay Bhattacharyya , J. :

1. Affidavit of service filed in Court today is taken on record.
2. The petitioner claims to be the owner of plots of land being Dag Nos.225, 200 and 224 along with other adjoining plots at Mouza-Barodhemo, J.L. No.5 under Police Station-Asansol (South) in the District of Paschim Bardhaman.
3. Petitioner alleges that the authorities of the West Bengal State Electricity Transmission Company Limited (for short

“WBSETCL”) has utilised the portion of the said property for the purpose of erection of the tower and have also caused severe damage to the property of the petitioner. Petitioner alleges that no compensation has yet been paid to the petitioner.

4. Mr. Banerjee, learned advocate appearing for the petitioner submits that while carrying out the work of erection of towers and laying down of transmission lines WBSETCL did not comply with the provisions laid down under Section 12 of the Telecommunications Act, 2023 (for short “2023 Act”). Mr. Banerjee submits that the authorities of the WBSETCL did not seek the right of way for telecommunication network across the aforesaid property of the petitioner as mandated under sub-section (1) of Section 12 of the 2023 Act.
5. Mr. Panja, learned advocate representing the WBSETCL submits that the said authority exercises its powers under the Indian Telegraph Act, 1885 (for short “1885 Act”) for the purpose of carrying out the work relating to placing of electric lines or electric plant for the transmission of electricity in the light of the provisions contained in Section 164 of the Electricity Act, 2003 (for short “2003 Act”). He submits that the provisions of the 2023 Act shall not apply to cases pertaining to laying down of transmission lines under Section 164 of the 2003 Act in view of the saving clause under sub-section (3) of Section 60 of the 2023 Act. Mr. Panja submits that the petitioner was requested to

attend the office of the concerned authority for the purpose of accepting the amount on account of crop compensation but the petitioner has failed to attend the office of the concerned authority.

6. In reply, Mr. Banerjee, learned advocate appearing for the petitioner submits that the petitioner is not satisfied with the amount determined on account of compensation.
7. Heard the learned advocates for the respective parties and perused the material placed.
8. Record reveals that the petitioner was requested to allow construction of 220 KV transmission towers on certain plots within Mouza-Borodhemo by a letter dated June 6, 2024. It is not in dispute that the work of construction has already been completed in the meantime.
9. Record further reveals that the petitioner was requested by a memo dated March 25, 2025 to collect the crop compensation amount which has been finalized for the damage during the tower construction work on the land of the petitioner.
10. Mr. Banerjee, learned advocate appearing for the petitioner would contend that since the petitioner is not satisfied with the determination of the compensation amount, the amount has not been accepted by the petitioner.
11. Section 164 of the 2003 Act states that the Appropriate Government may, by order in writing, for the placing of electric

lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of work, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.

12. The authorities of the WBSETCL exercised the power of the Telegraph authority in the case on hand for the purpose of placing the transmission lines and for installation of a transmission tower on the plots in question.
13. Section 60 of the 2023 Act deals with the repeal of certain acts and savings. Sub-section (1) of Section 60 states that subject to the other provisions of this section, the enactments namely, the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 are hereby repealed.
14. Sub-section (3) of Section 60 of the 2023 Act states that the provisions of Part-III of the Indian Telegraph Act, 1885 shall continue to apply to all cases pertaining to laying down of

transmission lines under Section 164 of the Electricity Act, 2003 as if the Indian Telegraph Act, 1885 has not been repealed, and the provisions of Part-III of the Indian Telegraph Act, 1885 shall continue in force with reference to Section 164 of the Electricity Act, 2003 till such time as Section 164 of the Electricity Act, 2003 is amended.

15. As observed hereinbefore that the authorities of the WBSETCL exercises its powers under Section 164 of the 2003 Act. Thus, in view of the provisions laid down under sub-section (3) of Section 60 of the 2023 Act, the applicability of the provisions of Part-III of the 1885 Act has been saved on a conjoint reading of sub-sections (1) and (3) of the 2023 Act.
16. Part-III of the 1885 Act starts with Section 10 of the 1885 Act which deals with the power of the telegraph authority to place and maintain telegraph lines and posts.
17. Clause (d) of Section 10 of the 1885 Act states that in exercise of the powers conferred by that 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.
18. It is not the case of the either of the parties that the property falls within clause (c) of Section 10 of the 1885 Act. Therefore,

in the light of the provisions contained in Section 10(d) of the 1885 Act, the persons interested should be entitled to damage sustained by them by reason of the exercise of the powers by the concern authority.

19. On a query of the Court, Mr. Banerjee, learned advocate appearing for the petitioner, in his usual fairness, submits that the classification of the plot in question has been recorded as “Shali” meaning thereby “agricultural” in the Record of Rights.
20. From the communication made by the Additional Chief Engineer, Durgapur Field Zonal Office, WBSETCL dated March 25, 2025, it is evident that crop compensation of Rs.3,45,762/- has been finalized for the damage during tower construction work on the land in question. The petitioner alleges that the compensation amount determined by the concern authority is insufficient.
21. Section 16 of the 1885 Act also falls under Part-III of the 1885 Act. Thus, the provisions of Section 16 of the 1885 Act shall squarely apply to a case where the power under Section 164 of the 2003 Act has been exercised.
22. Sub-section (3) of Section 16 of the 1885 Act deals with a dispute as to the sufficiency of the compensation. It states that 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.

23. Since the petitioner is raising a dispute as to the sufficiency of the compensation amount determined by the authorities under Section 10(d) of the 1885 Act, the petitioner has to avail of the remedy provided under sub-section (3) of Section 16 of the 1885 Act.
24. For all the reasons as aforesaid, the writ petition stands disposed of by giving liberty to the petitioner to approach the appropriate authority in accordance with law in case the petitioner is aggrieved by the compensation amount determined by the authority under Section 10(d) of the 1885 Act.
25. There will be no order as to costs.
26. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)