

**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, CHAMARAJANAGAR**

DATED THIS THE 13th DAY OF FEBRUARY 2025

PRESENT:

**SMT. B.S.BHARATHI, B.Sc., LL.B.
Prl. District & Sessions Judge
Chamarajanagar**

Mis.Petition.41/2022

Petitioner/s :- Basamma.
V/s.

Respondent:- Executive Engineer [Electrical]
KPTCL

Applicant **I.A.II**
Basamma.
Vs.

Opponent: Executive Engineer [Electrical]
KPTCL

**Order on Interlocutory Application filed
U/o.26 Rule 9 of CPC by the Petitioner.**

This application is filed U/o.26 Rule 9 r/w/sec.151 of CPC by the Petitioner praying for appointing ADLR/ Taluk surveyor or any other competent person as the court thinks fit as Court Commissioner to measure the right of way / corridor area passed or drawn over the Petitioner's land and report the same to the court.

2. Affidavit of the Petitioner is filed along with the application stating that the Respondent has installed tower and also drawn high tension line over her land. The drawn area over her land called as right of way / corridor area has to be ascertained so as to assess the compensation. In order to ascertain the exact extent of right of way / corridor area, the survey has to be conducted by the competent person. Hence, prays for allowing the same on several other grounds.

3. Objection is filed to this I.A by the Respondent stating that this application is filed to create evidence and documents. This application is a pre-mature application and appointment of commissioner would arise only after adducing the evidence. Hence, prays for dismissing the application on several other grounds.

4. Heard both sides.

5. The points that arise for my consideration are:

1. Whether the Petitioner has made out a ground to appoint the Commissioner as prayed?

2.What order?

6. My findings on the above points are as under:-

Point No.1: In the **Affirmative.**

Point No.2: As per final order for the following:

REASONS

7. This petition is filed by the Petitioner against the Respondent U/Sec.16(3) of Indian Telegram Act r/w/sec.164 of

Indian Electricity Act praying for enhancing the compensation awarded in respect of laying high tension line towards Kadakola-Chamarajanagar in the agricultural land of this Petitioner bearing **Survey No.45 measuring to an extent of 26 Guntas situated at Thoravalli village, Begur Hobli, Gundlupet Taluk.** In the petition, it is stated that he has received **Rs.30,000/-** compensation from the Respondent towards crops and tree damages without prejudice to his rights of making further claim. However the said amount awarded is not sufficient. Hence, this petition is filed before this court.

8. After filing of the petition, Petitioner was examined as PW-1 and in the evidence, she has reiterated all the facts stated in the petition. In support of her case, she has produced Ex.P-1 to Ex.P-6

9. PW-1 was cross-examined by the advocate for Respondent and in the cross-examination, it is suggested to this witness that this witness has not got measured the extent of land where this high tension wire has gone on her land. Therefore, it is clear that there is a suggestion to PW-1 itself by the Respondent's advocate stating that there was no measurement of the extent of land where this high tension wire has gone. Therefore, in order to ascertain the exact measurement of wire which has gone on the land of the Petitioner and to ascertain whether the compensation amount

awarded is proper or not and whether it is necessary to enhance the compensation or not, it is necessary to appoint a Commissioner as prayed by the Petitioner. Hence, I answer **Point No.1 in the Affirmative.**

10. **Point No.2:-** In view of answering point No.1 in the Affirmative, I pass the following-

ORDER

Interlocutory Application filed by the Petitioner U/o.26 Rule 9 r/w/sec.151 of CPC is hereby **ALLOWED.**

To give memo of instruments to the Commissioner, call on 03.03.2025.

(Dictated to the Stenographer in the Open court, same was typed by her and thereafter corrected by me and signed by me on 13.02.2025)

(B.S.BHARATHI)

Prl. District and Sessions Judge,
Chamarajanagar

