



IN THE COURT OF VI ADDL. DISTRICT AND SESSIONS JUDGE
AT TUMAKURU

PRESENT : Smt.Shilpa K.S,

BA.L., LL.M.,

VI Addl. District and Sessions Judge,
Tumakuru

Dated this the 03rd day of August 2026

Civil Mis.204/2019

Petitioner : Chennaiah, Dead by Lrs.,

- 1) Venkatamma, W/o. Channaiah,
A/a. 68 years,
- 2) Channigaramaiah, S/o. Channaiah,
A/a. 53 years,
- 3) C. susheela, D/o. Channaiah,
W/o. R.V.Srinivasamurthy, A/a. 48 years,
- 4) Ashoka, S/o. Channaiah, A/a. 46 years,
- 5) Jayalakshmi, D/o. Channaiah, A/a. 42 years,

Petitioners No.1, 2, 4 & 5 are R/at. Bandihalli
village, Nittur Hobli, Gubbi Taluk,
Tumakuru District.

Petitioner No.3 is R/at. No.10, 2nd cross,
Anubhava Nagara, Moodalapalya,
Nagarabhavi, Benagluru-72.

(By Sri.B.V.K., Advocate)



V/s

- Respondents:** 1. The Executive Engineer (Elec.),
Major works division, KPTCL. Tumakuru.
2. The Asst. Executive Engineer (Elec.)
Major Works Sub Division, No.5, KPTCL.

Both offices are situated at
Old Zilla Panchayath Office Building,
Kothitopu Road, Tumakur.

(By Sri. M.S.S., Advocate)

ORDER

The petitioner has filed this petition under section 10(d) of Indian Telegraphic Act r/w section 16 of Electricity Act and U/s 18(1) of Land Acquisition Act for enhancement of compensation. That during the pendency of the petition the original petitioner died and hence his legal heirs were brought on record.

2. It is the case of petitioners that the original petitioner was the owner of land bearing Sy.No.17/1 measuring 4.5 guntas of land situated at Ammanahalli village. In order to install over headline for transmission of



220 KV for the purpose of construction of HAL factory unit the authorities of respondents have cut and removed number of fruit bearing trees and paid compensation of Rs.96,840/-. It is averred that the respondents have undervalued and the value was not calculated on the basis of actual yield and income per year and compensation now fixed for trees is improper and not in accordance with law. He has received the compensation from the respondents. Being not satisfied with the compensation awarded by the respondents, the petitioner has filed this petition for enhancement of compensation.

3. After service of notice on the respondents they have appeared through their counsel and filed objections.

4. The averments of the objections of the respondents No.1 and 2 are as under :-

That this petition filed by the petitioner praying for grant of additional compensation for the alleged loss of crops as a result of drawing of transmission lines by the



respondents is not maintainable. The respondents have admitted about cut and removal of trees. However, it is their case that they have issued notice on 14.02.2017 requesting the petitioner to cut and remove 03 coconut trees, 05 arecanut trees. As per the direction the respondents have cut and removed non fruit bearing trees. The respondents have fixed the compensation as per the assessment of the D.C in NMAG(1)CR.74/2015-16 dt.12.02.2016 and also paid compensation for corridor. The respondents have referred the matter to the horticulture department, Gubbi for assessing the value of the said trees. The horticulture department Gubbi have referred the matter to the Forest department and as per the norms of both departments the respondents have paid the compensation. In addition to this a sum of Rs.74,340/- was paid towards damage to the land of 4 ½ guntas and Rs.22,500/- towards the tower was paid to the petitioner. The petitioner had received the same without protest. Hence, the petition is not maintainable for



enhancement of compensation. Accordingly, respondents have prayed to dismiss the petition.

5. During the course of trial, one of the legal heir of the original petitioner got examined himself as PW.1 and got marked in all 16 documents at Ex.P.1 to P.16 and closed their side.

On the other hand, the respondent No.2 got examined himself as RW.1 and got marked 11 documents at Ex.R.1 to R.11 and closed their side.

6. Heard both sides. The petitioner has filed written arguments.

7. The points for my determination is as under :

- 1) Whether the petition is not maintainable in view of the receipt of compensation by the petitioner without protest?
- 2) Whether the compensation paid by the respondent to the petitioner is sufficient and in accordance with law?



3) If not, what is the compensation to which the petitioner is entitled to?

4) What Order?

8. My answer to the above points are as under:

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

Point No.4 : As per final order, for the following:

REASONS

9. **Point No.1** : The respondents have taken up a contention that petition is not maintainable as the petitioner had received the compensation without protest. This question has already been considered and settled by the Hon'ble supreme court in the case of **Kerala State Electricity Board v/s Ulahannan Markose reported in (1969) 1 SCWR 645** it is observed that dispute contemplated by section 16(3) of the Indian Telegraph Act was a dispute which should have arisen



before the telegraph authority at the time of payment and if no dispute was raised at the time of payment it was not open to the respondent to file an application under section 16(3). In our opinion, there is no justification for this argument. There is nothing in the language of section 16(3) to suggest that the dispute about the sufficiency of compensation must be raised at the time of payment. On the other hand, there is no restriction of limitation in the section as to when the dispute should have arisen. The only condition therefore for the competence of an application under section 16(3) is that the dispute should have arisen at any time before the date of filing of the application. On behalf of the appellant stress was laid on expression "to be paid" in section 16(3) and it was said that the compensation contemplated in the sub-section was not the compensation actually paid but it was the compensation that was to be paid in the future. It was argued that the dispute regarding such amount to be paid in future must have arisen earlier and it could therefore arise only at



the time of payment by the telegraph authority. We do not think that this argument is right. The expression "to be paid" does not necessarily mean that the amount should be paid in future. The expression only means compensation "payable" under Section 10(b). We are hence unable to accept the argument of the appellant that by accepting the compensation amount without protest the respondent has lost his right of filing the application under section 16(3). It was also contended that unless there was a protest in writing by the respondent he was not entitled to apply to the court under section 16 of the Act for enhanced compensation. In our opinion, there is no substance in this argument. There is nothing in the language or in the context of section 10 or section 16 of the Telegraph Act to suggest that written protest should be made by the recipient and we see no reason for putting any such restriction on the language of the statute.



10. Thus, it becomes clear that there is nothing in the language or in the context of Section 10 or Section 16 of the Telegraph Act to suggest that written protest should be made by the recipient. By applying the principles of law lay down in the decision *supra*, I hold that petition is maintainable even though the petitioner had received the compensation without protest. Hence, point No.1 is held in negative.

11. Point No.2 & 3: As these two point are inter connected to each other, they are taken up together for common discussion to avoid repetition of facts.

In order to substantiate the case one of the legal heir of the original petitioner got examined himself as PW.1. He filed an affidavit in lieu of chief examination reiterating the facts narrated by him in his petition. The respondents could not be elicited anything in their favour in his cross examination. He has produced 18 documents at Ex.P1 to P.16 like copy of notice, requisition, copy of mahzar, Survey report, certificate, payment details, acknowledgments, receipts, yield and price



certificate, orders in C.Mis.267/20. Copy of sale agreement, valuation report and RTC. On the other hand, the respondent No.2 has got examined himself as RW.1 and he got marked 11 documents at Ex.R1 to R.11 like copy of notices, requisition, mahzar, payment receipts, acknowledgment, notification, statement of account and orders of D.C.

12. The Hon'ble High court of Karnataka in the case of **Executive Engineer, KPTCL v/s Doddakka: ILR 2015 Kar 677** while dealing with the grant of compensation under section 10 and 16 of Telegraph Act, has held as hereunder as it cannot be disputed that drawing up of high voltage electrical line through any property by the petitioners in exercise of the powers conferred on them under Section 10 of the Indian Telegraph Act, 1885, would result in damage to the value of the property, apart from causing damage to the standing trees. It is for this reason provision has been made under Section 10(d) of the Act, requiring the Telegraph Authority to do as little damage as possible and shall pay 'full



compensation' to all persons interested for any damage sustained by them by reason of exercise of those powers by the Telegraph Authority. It is also evident from Section 11 of the Act that the Telegraph Authority has got the power to enter on the property in order to repair or remove the telegraph line or both and also for the purpose of examining, repairing, altering or removing the same at any time. Section 16(3) of the Act, provides for the Forum, namely the Court of the District Judge within whose jurisdiction the property is situated to determine any dispute concerning sufficiency of compensation to be paid under Section 10(d) of the Act. It is thus clear from the aforementioned provisions that, a farmer who suffers damage to his crop and to the land on account of drawing up of transmission line over or across his land, is entitled for payment of 'full compensation'. The expression full compensation used in Section 10(d) of the Act has to be understood as just equivalent of which the owner has been deprived of including in the matter of diminution in the value



of the land on account of drawing up of overhead power line across the land.

13. Keeping in mind the principles of law lay down in the decision referred to above, now let me examine the case on hand as to whether the respondents have paid full compensation to the petitioner towards the damage sustained by him.

14. The petitioner is claiming that the respondents have not paid compensation towards the land. According to him, the market value of his property is as per the market value as mentioned in Ex.P.16 sale agreement and contended that the respondents did not pay any compensation to his land. Hence, he prays to enhance the compensation to his land. But it is pertinent to note that in this case the entire land is not acquired as still the possession of the said land is with the petitioner. Hence the said market value could not be considered.



15. Admittedly, the respondents have utilized an extent of 4½ guntas of petitioner's land in Sy.No.17/1 for the transmission of lines and paid compensation of Rs.22,500/- based on the orders of D.C and based upon the value of land prevailed at that time.

16. Though the petitioner is claiming enhancement of compensation towards line corridor, but it could not be granted as the entire land is not acquired by the respondents. Hence I am of the view that the petitioner is not entitled for enhancement of compensation under the head of diminution value.

17. With regard to the compensation in respect of damage to the crops and cut and removal of the trees in the land of the petitioner, it is noticed from the available documents that the respondents have cut and removed 03 fruit yielding coconut trees. But, compensation was not calculated on the basis of actual yield and income per year.



18. Further it is contended that respondents have awarded meager compensation. In the case of T.Girithimmaiah V/s K.E.B., Bangalore reported in AIR 1999 KAR 32, Hon'ble High Court of Karnataka has held that while fixing the compensation in respect of fruit bearing trees, net annual yield shall be multiplied by relevant multiplier and capitalization method shall be adopted.

19. According to the petitioner compensation was not calculated on the basis of actual yield and income per year. As could be seen from the documents and as per price list issued by the Assistant Secretary and Public Information Officer, APMC, Gubbi, which indicates that the minimum price of 1000 coconut is Rs.3,000/-, maximum price is Rs.9,000/- and average price is Rs.6,000/-. That there is no documents to know the age of the coconut trees. Hence under these circumstances it is just and proper to consider the annual yield of coconut per tree as 150 and the price of coconut is



considered as Rs.10/-. Thus, the annual income from the coconut per tree comes to Rs.1,500/-.

20. Further, it is relevant to mention that a farmer would also get income from coconut husk, flesh, shell and leaves which has to be taken note of and hence it is calculated as Rs.500/- per year for per tree. Accordingly, annual income from the coconut tree evaluated as Rs.2,000/-.

21. As held in Doddakka's case *supra*, 30% is to be deducted towards cost of cultivation and the multiplier of 10 is to be applied for calculating the compensation. If, 30% of cost of cultivation is deducted from the annual income of Rs.2,000/-, it comes to Rs.1,400/-. Hence, total annual income would be Rs.1,400/- per tree. If, the annual income is multiplied by using multiplier of 10 for 03 coconut trees, it comes to Rs.42,000/- under this head.

22. As could be seen from the documents the respondents No.1 and 2 have cut and removed 05 arecanut trees where no age is mentioned. Further the petitioners have



contended that the compensation was not calculated by the respondent based on actual yield and income per year in respect of the trees cut and removed from the lands and as such the compensation awarded in respect of trees is inadequate. On the other hand, the respondents have contended that the compensation was assessed on the basis of reports received from the concerned officers and as such the compensation awarded in favour of petitioners is in accordance with law.

23. With regard to the compensation in respect of arecanut trees are concerned, admittedly the respondents have cut and removed 05 arecanut trees and in absence of proof of age it has to be considered as 02 years. According to the petitioners compensation was not calculated on the basis of actual yield and income per year.

24. As could be seen from the yield certificate issued by Senior Assistant Horticulture Director (Z.P.) Tumkur the arecanut tree can yield 2 kg per tree per year. The price of



arecanut per quintal in the year 2015-16 was Rs.10,000/- to 20,000/-. The trees were cut and removed in the year 2015-16. Therefore, the average price of arecanut can be taken at Rs.16,500/- per quintal. So, it comes to Rs.165/- per kg. Therefore, the gross annual income from a arecanut tree would be (2 kg X 165) Rs.330/-.

25. As held in Doddakka's case supra, 30% is to be deducted towards cost of cultivation and the multiplier of 10 is to be applied for calculating the compensation. If, 30% of cost of cultivation is deducted from the annual income of Rs.330/-, it comes to Rs.231/-. Hence, total annual income would be Rs.231/- per tree. If, the annual income is multiplied by using multiplier of 10 for 05 arecanut trees, it comes to Rs.11,550/- under this head.

26. It is noticed that the respondents have paid Rs.96,840/- to the petitioner including the corridor and towards cut and removal of trees in the land of the petitioner. Hence the petitioner is not entitled for the enhanced



compensation as claimed. Accordingly, **points No.2 and 3 are answered in negative.**

27. Point No.4: In view of the reasons while answering the points No.1 to 3, I proceed to pass the following:

ORDER

The petition is dismissed with costs.

Advocate fee is fixed at Rs.500/-.

Draw award accordingly.

(Dictated to the Stenographer grade-1 directly on computer, got typed by her, printout taken by her, corrected, signed and then pronounced on this the 03rd day of August, 2026)

(Smt.Shilpa K.S)

VI Addl. Dist. and Sessions Judge,
Tumakuru.

ANNEXURE

1. List of witnesses examined for the petitioner :

PW-1 : Chennigaramaiah

2. List of documents marked for the petitioner :

Ex.P1 : Notice



Ex.P2	:	Requisition
Ex.P3&4	:	Mahazars
Ex.P5	:	JMC report
Ex.P6	:	Certificate
Ex.P7	:	Pahani
Ex.P8	:	Compensation bill towards damage
Ex.P9	:	Compensation towards crops and malkies
Ex.P10 & 11:		Cheque & Acknowledgment
Ex.P12	:	Annual yielding of malkies
Ex.P13	:	Price list of coconut and arecanut
Ex.P14	:	KIADB record dated 29.8.2018
Ex.P15	:	Order in C.Misc.No.267/2020
Ex.P16	:	Agreement dated 20.2.2024

3. List of witnesses examined for the respondents :

RW.1 : Shivanagendra N.K.

4. List of documents marked for the respondents :

Ex.R1	:	Notice
Ex.R2	:	Requisition
Ex.R3	:	Mahazar
Ex.R4	:	Compensation bill
Ex.R5	:	Acknowledgment
Ex.R6	:	Mahazar
Ex.R7	:	Compensation bill
Ex.R8	:	Acknowledgment
Ex.R9	:	Order of DC
Ex.R10	:	Proceedings of the Government
Ex.R11	:	Orders of KPTCL.

**VI Addl. Dist. and Sessions Judge,
Tumakuru.**