

KATK010063462019



**IN THE COURT OF II ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT TUMAKURU**

Dated this the 17th day of June 2026

Present : **Smt. N.Narasamma.,** B.A.L., LL.B.,
II Addl. Dist & Sessions Judge,
Tumakuru.

Civil Mis. Petition No.692/2019

Petitioner: B.K.Shiva Kumaraswamy
S/o Kallappa,
Aged 56 years,
R/o Bandihalli village,
Nittur Hobli, Gubbi Taluk,
Tumakuru District.
(By Sri. ASS., Advocate)

- versus -

Respondents:

1.The Superintend Engineer
K.P.T.C.L., Kothithopu Road,
Kothi topu, Tumakur Town.

2.The Executive Engineer (elct)
Bruhath kamagari Vibhaga,
K.P.T.C.L. Kothithopu,
Tumakuru Town.

3.Assistant Executive Engineer
No.5, Bruhath kamagari
Upa Vibhaga, Tumakuru.

(R.1 to 3 by Sri. MSS.,Advocate)

JUDGMENT

This is a petition filed by the petitioners u/sec.19 of Indian Electricity Act R/w Sec.13 of Indian Telegraphic Act 1885 seeking enhancement of compensation.

2. The brief facts of the petitioner's case are that;

The petitioner is the absolute owner in possession and enjoyment of land bearing Sy.No.76. The affected area measuring 0.05 guntas situated at Ammanahalli Village, Nittur Hobli, Gubbi Taluk, the respondents drawn the high tension power line over the above said land and also installed electric power line of stringing 110/110 KV for double way of multiple transmission for exchange of constructing HAL work. The respondents have cut and removed 95 arecanut trees and 0.05 guntas of corridor.

The amount paid by the respondents is very meager. Hence this petition.

3. After issuance of notice respondents have appeared before the court and filed objections by contending that the petition is not maintainable either in law or on facts. The respondents fixed compensation as per the assessment of the D.C. order dated 12.02.2016 and they have also paid compensation of Rs.25,000/- + Rs.3,89,576/- and the cheque was received by the petitioner without any protest. The compensation claimed by the petitioner is highly exorbitant and without any basis. Accordingly, respondents prayed to dismiss the petition.

4. During the course of trial the petitioner himself examined as P.W-1 and got marked 18 documents as Ex.P-1 to P-18 in support of his contention and closed his side of evidence. On the other hand, Manager of respondent company got examined as RW.1 and got exhibited 10 documents Ex.R.1 to R.10.

5. Heard the counsel for petitioner and respondents. Perused the petition, objections as well as the evidence placed before the Court.

6. The following points arise for my consideration:

1. Whether the petitioner is entitled for enhancement of compensation? If so, at what rate?

2. What order?

7. My answer to the above points are as follows:

Point No.1 : **Partly in the affirmative**

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

REASONS

8. Point No.1:- On perusal of pleadings and evidence available on record, coupled with the argument canvassed by both sides, at the outset it appears that the ownership of petitioners over the land bearing Sy.No.76, measuring 0.05 guntas acquired by the respondents which is situated at Ammanahalli village, Nittur Hobli,

Gubbi Taluk and it is not in dispute. Similarly the respondents have specifically admitted about drawing of 110/110 KV high tension electricity double layer circuit line having corridor width of 0.05 meters over the petitioners land is also admitted. In this petition as well as the affidavit filed for examination-in-chief the petitioner has admitted about the payment of compensation paid by the respondents a sum of Rs.25,000/-+ Rs.3,89,576/- for having drawn the high tension transmission lane and cutting of 95 arecanut trees. So absolutely there is no dispute between parties regarding drawing up of electricity lane over the land of petitioners.

8. Before proceeding further it is useful to refer the settled position of law enunciated on case law basis. As such, **Hon'ble High Court of Karnataka in the case of T.Giri Thimmaiah V/s Karnataka Electricity Board, Bengaluru and others** reported in AIR 1999 Kar. 32 has held at para No.8 that,

8. Keeping the above basic principles, this court proceeds to examine Sec.10 of the Indian Telegraphic Act 1885 reads as under.

Sec.10 Power of Telegraph authority to place and maintain a telegraph line under, over, along or across and posts in or upon, any immovable property:

Provided that---

(a)The Telegraph authority shall not exercise the powers conferred by this section except for the purpose of the Telegraph established or maintain by the (Central Government) or to be so established or maintained;

(b) The (Central govt.,) shall not acquired any right other than that of user only in the property under, over, along, across in or upon which Telegraph authority places any telegraph line or post; and

(c) Except as herein after provided the telegraph authority shall not exercise those

powers in respect of any property vested in or under the control or management of any local authority without the permission of that authority.

(d) In the exercise of the powers conferred by this 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”.

The use of the expression ‘full compensation’ in this section that ‘Telegraph Authority’ shall pay full compensation is an important expression. This provision per se indicates that no person should be made to suffer loss on account of activities of State and is to be compensation to the full extent to mitigate the loss suffered on account of the action of the authority. What is the importance of this

expression 'full compensation' and what is its meaning, these questions call for an answer and may have to be considered. Here, the Act of 1885 uses the expression 'full compensation'. The mandate of law is that in case of damage caused in exercise of power under S.10 of the Act, with respect to any property other than one referred to I clause (c), the Telegraph Authority shall pay full compensation to all persons interested and entitled for the damage caused on account of exercise of power under S.10. Use of 'full compensation' very clearly cannotes the idea that every effort shall be made to fully compensate the person for the loss and damage.

14. In another case **Karnataka Electricity Board & Another V/s Sri. M.B.Boraiah** reported in **AIR 2000 Kar 222**, the Hon'ble High Court of Karnataka by relying upon the decision of the Hon'ble High Court of Calcutta reported in AIR 1984 Cal 258 (SM.Binapani Basu V.Union of India) has

once again held that, ***"wherever Telegraph Authority have drawn double circuit line over the property and also installation of tower over the property the petitioner is entitled to compensation"***.

15. The Hon'ble Apex Court of in the case of **Kerala State Electricity Board Vs. Lavisha and others** reported in **2007 (6) SCC 792**, wherein their lordships have held at paragraphs 10 to 12 that,

"10.The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small tract of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used.

11. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case. We may, incidentally refer to a recent decision of this Court in Land Acquisition Officer Vs. Kamadana Ramakrishna Rao, [(2007) 3 SCC 526:2007 AIR SCW 1145] wherein claim on yield basis has been held to be relevant for determining the amount of compensation payable under the land acquisition Act; same principle has been reiterated in Kapur Singh Mistri Vs. Financial Commissioner & Revenue Secretary to Government of Punjab (1995 Supp (2) SCC 637], para 4 and Airports Authority of India Vs. Satyagopal Roy [(2002) 3 SCC 527]. In Airports Authority [(2002) 34 SCC 527), it was held: (SCC p.533, para-14]

4. Hence, in our view, there was no reason for the High Court not to follow the decision rendered by this Court in Gurucharan Singh case [1995 Supp (2) SCC 637] and determine the compensation payable to the respondents on the basis of the yield

from the trees by applying 8 years' multiplier. In this view of the matter, in our view, the High Court committed error apparent in awarding compensation adopting the multiplier of 18".

12. We are, therefore, of the opinion that the High Court should consider the matter afresh on the merit of each matter having regard to the fact situation obtaining therein. The impugned judgments, therefore, cannot be sustained. These are set aside accordingly. The matters are remitted to the High Court for consideration thereon afresh. The appeals are allowed. In the facts and circumstances of the case, there shall be no order as to costs".

16. As the aforesaid ratios are laid down while disposing the cases under Section 16(3) of Indian Telegraphs Act, the principles are *ipso-facto* applicable to the case on hand. Thus, in view of these principles of law enunciated coupled with the provision of law under Section 17\6(3) r/w Sec. 10(d) of Indian Telegraphs Act, the contention of the

respondent that petitioner is not entitled for enhancement of compensation is not sustainable. Per contra, the petitioner is very much entitled for enhancement of compensation. In view of the decision of the Hon'ble Apex Court, with due respect the decision in Writ Petition No.10274/2022 upon which the respondent counsel has relied upon would not come to his rescue.

The petitioner has contended that his land became useless for any kind of developmental activities. Even though the petitioner has denied the suggestion that he can cultivate the land even after electric corridor was drawn by the respondent, he has very much admitted that he has not executed sale deed towards land and thereby he is in possession of the land. Therefore it can be held that, the petitioner even after drawn the electric lane, he can enjoy his land by cultivating and growing crops like ragi, jawar, paddy, maize, groundnut. However, the petitioner has been permanently restrained to put up any permanent structure like building, growing

of tall trees like coconut, areca-nut, eucalyptus mango and other trees. However, as per the settled position of law, the petitioner is entitled for compensation in respect of diminution in the value of land. In this regard, I place reliance on the judgment of full bench of **Hon'ble Kerala High court** in the case of **Arya Antherjanam V/s Kerala State Electricity Board, Trivandrum reported in AIR 1996 Kerala 309** wherein their lordships have held as follows;

“22. In this case it is the claimant who knows best as to how his land could be cultivated with other crops which would not violate the restrictions regarding open space to be left from the electric lines, towers and posts. L it is quite plausible that every land owner would be using the land beneath the electric lines (be they of high tension or low tension) to raise cultivation or for some other purpose except of course for growing tall trees or constructing high structures. Thus, regard being had to the common course of natural

events, the Court can draw a presumption that agricultural operation in a reasonably profitable manner can be carried on in the affected land except growing tall trees. Hence, the burden is on the claimant to rebut the said presumption".

(underlines by me and given emphasis)

18. Very recently the aforesaid aspects are once again came for consideration and after detailed analysis an discussion, has laid down the detailed procedure for reassessment of market value of the land and the market value of fruit bearing trees and standard deduction in respect of cultivation of land in case of assessment of fruit bearing trees and diminution of land. The Hon'ble High Court of Karnataka vide **W.P.No.39979/2013 (GM-KEB)** in the case of **the Executive Engineer, KPTCL Vs. Doddakka, in case of the KPTCL Vs. A.P.Manoharachar** reported in **2015(1) KCCR 245** and in case of **Jayamma Vs. KPTCL vide W.P.No.39593/2016 (GM-KEB)** dated 07.06.2018. At para 8 & 9 of **Manoharachar case**, stated supra, his lordship has held that,

8. In paragraph 24 of the order passed in W.P.No.39979/2013, as regards diminution value, this court has laid down as under:

As regards the diminution value of the land falling within the corridor, the learned District Judge having determined the market value of the land has awarded 50% of the same as diminution value. It cannot be disputed that though the farmer is not capable of growing trees underneath the corridor, he is not totally deprived of utilizing the land for carrying out other agricultural operations. He is entitled to grow other crops, which may not affect the high voltage transmission line. Though the farmer is deprived of the opportunity to utilize the land to its full potential and grow horticulture crops, particularly consisting of trees and other luxurious shrubs, he is capable of utilizing the land. The title of the land continues to vest in him. It is no doubt true that his access to the

land and use of the same by erecting any pole, shed or any other installation will be restricted. In a case like this where high voltage transmission line is drawn across the land, utilization of the other portion of the land is also affected. Therefore, all these factors have to be taken into consideration before determining the diminution in the land value on account of drawing of high voltage electrical line. If these relevant factors are borne in mind, particularly having regard to the photographs produced and the evidence adduced by the claimant- land owner, I find that 30% of the market value of the area affected shall have to be paid as diminution value of the land to the farmer. The market value of the land has been determined at Rs.2,00,000/- per acre based on the evidence on record, particularly the sale certificate issued by the Sub Registrar. There is no scope to interfere with the valuation of the market value made by the learned District Judge. Therefore, the only

modification that can be made in awarding the diminution value is that instead of 50% of the market value awarded by the learned District Judge, it has to be calculated at 30% . If so done, the diminution value of the land comes to Rs.42,705/- (Rs.5,000/- per gunta x 28.47 guntas x $30/100 = 42,705/-$).

9. Thus, the award of compensation towards diminution value of the land on account of the electrical lines drawn across the land towards deprivation of usage and utility of the land has to be calculated at 30% of the market value of the land falling under the corridor area.

10. In order to apply the aforesaid analogy, it is imperative to assess the market value of the land. It is the contention of the petitioner that the market value of his land more than the value calculated by the respondents. But, the petitioner has not produced the SR guild-line value of his land. However he has relied upon the registered sale agreement in connected case No.Civil

Mis.691/2019 (at Ex.P.23). This court by relying upon the said document has awarded diminution value in respect of the land at Rs.54,571/- and the same is rounded off to Rs.54,600/-.

11. As stated above the actual extent of the land of petitioner is not in dispute and respondent has admitted the 0.05 guntas of land was utilized to draw the high tension wire. Therefore, if the analogy enunciated in **Doddakka's** case is applied to the case on hand, then the compensation required to be paid to the petitioner would become **Rs.81,900/-** ($54,600 \times 5 \times 30\%$) under the head of diminution of land value. Hence the petitioner is entitled for enhanced amount of Rs.81,900/- inspite of diminution value of land.

12. The petitioner claimed that the respondent acquired 95 arecanut trees and paid compensation of Rs.3,89,576/-. In support of petitioner's claim the petitioner has not produced any documents regarding yield and income earned by him before cutting of trees. In the absence of any material documents, this court would like rely upon the assessment made by the Hon'ble

High Court of Karnataka in Writ Petition No.35180/2016 (GMKEB) dated 12.09.2019 in case of executive Engineer, KPTCL Vs. Hosallaiah B.V. It is pertinent to note that said case is arisen in Chelur Hobli, Gubbi Taluk, Tumakuru District for having drawn the electric high tension line. Wherein, his lordship by relying upon the ratio laid down in Doddakka's case, by considering the market value of arecanut at Rs.135/- per k.g. by deducting cost of cultivation at 30% i.e., Rs.40/- (135X30%) The net value of arecanut per K.G. after deduction of cost of cultivation would become Rs.95/- (135-40). Yield of arecanut is taken at 2 k.g. per tree and therefore the net income per tree would become Rs.190/- (95x2). By applying multiplier 10 in respect of 290 arecanut trees, his lordship has assessed the market value of the arecanut as $190 \times 10 \times 290 = \text{Rs.}5,51,000/-$.

13. Thus, if the aforesaid analogy is applied to the case on hand, the compensation in respect of cutting of 95 yielding arecanut trees would become Rs.1,80,500/-.

(190x10x95) Thus, the loss sustained for cutting 95 arecanut trees is worked out at **Rs.1,80,500/-**.

14. Coming to the rate of interest in view of decision of Hon'ble High Court of Karnataka in the aforesaid cases in the prescribed rate of interest for which the petitioner is entitled is at 8% per annum on the compensation amount from the date of the respondent issuing cheque. The petitioner is entitled for interest at the rate of 8% p.a. from the date of issuing cheque is 21.03.2017. Accordingly, point No.1 is answered **partly in the affirmative.**

15 . Point No.2:- For the foregoing reasons on point No.1, I proceed to pass the following:

ORDER

The petition filed by the petitioner under u/sec.19 of Indian Electricity Act R/w Sec.13 of Indian Telegraphic Act 1885 is allowed in part with costs.

The petitioner is entitled for Rs.81,900/- in respect of diminution of land value of 5 guntas with interest from 21.03.2017 till payment.

The petitioner is also entitled for enhanced compensation of Rs.1,80,500/-in respect of 95 arecanut trees with interest at 8% p.a. from 21.03.2017 till payment.

The respondents are directed to pay the compensation amount along with accrued interest within 2 months from the date of this order. On deposit, the entire enhanced compensation amount shall be released in favour of petitioner.

Draw award accordingly.

Advocate fee is fixed at Rs.500/-.

(Dictated to the Stenographer, computerized transcript revised and then pronounced by me in the open Court on this the 17th day of June 2026).

(N.Narasamma)

II Addl. Dist & Sessions Judge,
Tumakuru.

ANNEXURE**List of witnesses examined for the petitioners:**

PW-1 : B.K.Shivakumaraswamy

List of documents marked for the petitioners:

Ex.P-1 : Notice
Ex.P-2 : Request letter
Ex.P-3 &4 : 2 Mahazars
Ex.P-5 : Spot Inspection report
Ex.P-6 : Certified copy of RTC
Ex.P-7 & 8 : 2 indemnity bonds
Ex.P- 9 , 10: Acknowledgments
Ex.P-11, 12: Compensation bills
Ex.P-13 : Certified copy of Passbook
Ex.P-14 : Copy of Aadhar card
Ex.P-15 : Certificate
Ex.P-16 : Certified copy of order in C.Mis. 292/2020
Ex.P-17 : Yield certificate
Ex.P-18 : Certified copy of sale agreement.

List of witnesses examined for the respondent:

RW.1 : Shivanagendra

List of documents marked for the respondent:

Ex.R.1 : Certified copy of notice dtd 21.02.2017
Ex.R.2 : Request letter
Ex.R.3 : Mahazar
Ex.R.4 : Corridor bill
Ex.R. 5 : Acknowledgment dtd 09.04.2018
Ex.R.6 : Mahazar
Ex.R.7 : Compensation bill

- Ex.R.8 : Acknowledgment
Ex.R.09 : Order of D.C.
Ex.R.10 : Proceedings of Govt., of Karnataka.

**II Addl. Dist & Sessions Judge,
Tumakuru.**