

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4034 of 2026****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK Sd/-**

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Approved for Reporting	Yes	No
		No

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SOLANKI TALASHIBHAI GANDABHAI & ORS.**Versus****STATE OF GUJARAT & ORS.**

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Appearance:**MR ABHICHANDANI FOR KUMAR H TRIVEDI(9364) for the Petitioner(s) No. 1,2,3,4****MEETKUMAR J PANDIT(9479) for the Petitioner(s) No. 1****MS DIXA PANDYA AGP for the Respondent(s) No. 1****MR SP HASURKAR(345) for the Respondent(s) No. 2,3**

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CORAM: HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**Date : 01/05/2026****JUDGMENT**

1. **RULE** returnable forthwith. Ms. Dixa Pandya, learned AGP waives service of notice of Rule for and on behalf of the respondent No.1 and Mr. S.P. Hasurkar, learned counsel waives service of notice of Rule for and on behalf of the respondent Nos. 2 and 3.

2. With the consent of the learned counsels for the parties, the matter is taken up for final hearing and disposal.

3. By way of present petition under Article 14, 21, 226 & 300A of the Constitution of India r/w the provisions of Section 6 r/w Section 164 of the Electricity Act, 2003 & Works of Licensees Rules, 2006 and under the provisions of the Section 10 of the Indian Telegraph Act, 1885 and Rule 11 of the Indian Telegraph Right of Way Rules, 2006, petitioner has prayed for the following reliefs :

“9(A) This Hon'ble Court may kindly be pleased issue to writ of mandamus or any other appropriate writ, order, or direction in nature of mandamus directing respondent authorities to carry out survey for alternate route for laying down of heavy electric line on the land in question and finalise the route which causes minimum damage to private property;

(B) Pending admission, hearing and final disposal of this petition, this Hon'ble Court may kindly be pleased to direct respondent authorities to grant status quo in respect of the lands in question and in respect of the impugned action of installing the electric lines and poles;

(C) Ex-parte/Ad-interim relief in terms para (B) above be granted; and;

(D) Such other and further relief(s) as are deemed fit in the interest of justice and equity be granted.

4. Brief facts giving rise to the present petition are that, the Petitioners are the owners and in possession of land bearing Survey Nos. 99, 100 and 105 situated at Village Hirapur, Taluka Sanand, District Ahmedabad, and Survey Nos. 1072 and 1073 situated at Village Kunvara, Taluka Sanand, District Ahmedabad (hereinafter referred to as “the lands in question”), and are carrying out agricultural activities thereon.

4.1 The Respondent authorities are proposing to lay a 66 KV

High Tension electric line from 400 KV Charal Sub-Station to Vendor Park, Chharodi, passing through the lands in question. In this regard, undated notices in the year 2019 were issued to the Petitioners.

4.2 The proposed alignment is highly inconvenient and impractical, causing undue hardship to the Petitioners, despite the availability of a more viable and less damaging alternative route, as reflected in the maps produced by the Petitioners.

4.3 The Respondents preferred applications under the Telegraph Act and the Electricity Act before the Ld. Collector, Ahmedabad (Hirapur Case No.10/2021 and Kunvara Case No.11/2021), seeking permission to erect towers and lay the electric line. By orders dated 01.04.2022, the Ld. Collector allowed the said applications. A Regular Civil Suit No. 141 of 2020 is also pending before the Ld. Civil Judge, Sanand.

4.4 Since 2022, only five towers have been constructed and no further work was carried out, leading the Petitioners to believe that the route had been altered. However, recently the Respondents have resumed survey activities on the Petitioners' land for further construction, giving rise to the present Petition.

5. Being aggrieved and dissatisfied with the in action on the part of the respondents, the present petition is preferred.

6. Heard Mr. Abhichandani learned counsel for Kumar H. Trivedi, learned counsel appearing on behalf of the

petitioners, Ms. Dixa Pandya, learned Assistant Government Pleader for the respondent No.1 and Mr. S.P. Hasurkar, learned counsel appearing on behalf of respondent Nos. 2 and 3.

7. Learned counsel for the petitioners has submitted that the action of the Respondent Authorities in laying and installing a high-tension electric line over the land in question is illegal, arbitrary, unsustainable, and in violation of the principles of natural justice. He has submitted that the Respondent Authorities have failed to consider the relevant provisions of the Electricity Act and the Telegraph Act, as well as the rules framed thereunder, and have ignored the inconvenience and damage caused to the Petitioners. He has submitted that the order at Annexure-D passed by the learned Collector is without application of mind, as none of the contentions raised by the Petitioners have been considered.

7.1 Learned counsel for the petitioners has further submitted that the Respondent Authorities failed to consider alternative, feasible routes, such as through the adjoining GIDC land or water canal. The panchnama dated 15.07.2021, carried out by the Court Commissioner in Regular Civil Suit No. 141 of 2020, clearly records the availability of two alternative routes; however, no steps were taken in that regard. He has submitted that the Respondent Authorities proceeded on the erroneous assumption that the land in question was 'Panjrapol' land. He has submitted that the notification issued by the Respondent Authorities did not specify survey numbers, thereby depriving the Petitioners of an opportunity

to raise objections. He has submitted that the Respondent Authorities have neither declared compensation nor published a detailed route map, nor undertaken a proper survey of alternative routes, contrary to the law laid down in case of ***Mehulsinh Jitish Rana v. Torrent Energy Limited reported in 2015(0) GUJHC 34156***. It is submitted that the Respondent Authorities have arbitrarily chosen the route on an incorrect assumption regarding the nature of the land and without considering less damaging alternatives.

7.2 Learned counsel for the petitioners has referred and relied upon Sections 10 and 16 of the Indian Telegraph Act, 1885, which is reproduced hereunder :

“Section 10 : Power for telegraph authority to place and maintain telegraph lines and posts .—

The telegraph authority may, from time to time, 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 purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;

(b) the [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post;

(c) except as hereinafter 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; and

(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.”

Section 16 : Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) 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.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.”

7.3 Referring to Sections 10 and 16 of the Act, learned counsel for the petitioner has submitted that the jurisdiction vested with the respondent has *de hors* the provisions of the

Act and the respondent is not authorized to take any action as provided under the Act. He has submitted that as per the Resolution passed by the State Government on 01.05.2024 in relation to the transmission line / transmission power erected on the lands of the concerned persons, appropriate compensation is to be awarded to the affected persons. He has submitted that as per the provisions of Sections 67 and 68 of the Indian Electricity Act, 2003 read with the provisions of the Indian Telegraph Act, Sections 10 and 16, the owner / occupant is entitled for compensation in case of any damage or harm caused to the concerns while erecting or laying down over head line from their property, and herein the present case, the respondent by virtue of notification has published the notice in the newspaper and also in the Government Gazette with regard to the scheme announced by the Central Government and authorized the respondent, is without there being any authority and therefore, under such circumstances, the respondent is not empowered to disturb the possession of the petitioner.

8. Learned counsel for the petitioner has relied upon the decision of this Court in case of ***Jaisinh Parshottambhai Patel vs. Essar Power Transmission Company Limited*** reported in **2015(0) GUJHC 33438**, and more particularly paragraph No.10 which reads as under:-

"10. In view of the above, following principles which may be concerning to the present group of petitions can be deduced as under:

(a) At the time when the transmission line is to be laid down, it is required for the person desirous to get the licence to apply for licence to the Appropriate Government. In case of inter- state, if the transmission line is to pass through more than one State,

Appropriate Government would be Central Government, but if the line is to pass within the State, the Appropriate Government would be the State Government.

(b) When the application is made to get a licence for laying down of transmission line, the route for transmission lines is to be provided at the time of applying for licence. The public notice is required to be published in the newspaper having circulation in the area describing the various parcels of the land through which the line is to pass and the map should also be made available to the objector for inspection if any person is so desirous.

(c) The objections can be submitted by the owner or the occupier of the property over which the transmission line is to pass or laid down.

(d) Any objections filed is required to be considered by the Appropriate Government and after consideration of such objections, the Appropriate Government may decide to grant licence under section 68 of the Act or may decline to grant licence under section 68 of the Act. In case of grant of licence, it would be with the approved map providing for route of passing of transmission line. Such may include modification of the route if any found appropriate by the Appropriate Government on account of the objections filed by the owner or occupier or otherwise.

(e) Once the licence is granted and approval is granted to the route of the transmission line, it would be required for the licensee company to go by the route so approved of the transmission line. If any alteration is to be made in the route, the licensee company may be required to approach before the Appropriate Government for substantial modification in the route and again the same procedure for inviting objections, consideration of objections by the Appropriate Government and thereafter to get sanction for the change in the route of transmission line would be required.

(f) In the event the licensee company or its officer if found proper, may be conferred with the power under section 164 of the Act as that of the telegraph authority for laying down of the transmission lines. In absence of any conferment of power under section 164 of the Act as no rules are framed for the procedure under section 68 of the Act, the licensee company may follow the procedure for works as provided under sections 12 to 19 of the Act of 1910. But in a case where there is conferment of power under section 164 of the Act, the procedure from section 10 to section 16 of the Telegraph Act will be required to be followed.

(g) When the authority exercises the power under section 10 of the Telegraph Act, it has to ensure that the laying down of the line is as per the approved route and little damage as possible is caused to the property of the owner or occupier and simultaneously,

appropriate compensation is also tendered to the affected person. At that stage, the owner or the occupier of the property has also right to resist the entry and resist for laying down of the transmission line over his property and has a right to raise the dispute for sufficiency of the compensation.

(h) If the resistance is shown by the owner or occupier of the property to the entry or laying down of the line over the property, the officer of the licensee company would be required to proceed before the District Magistrate under section 16(1) of the Telegraph Act. At that stage the District Magistrate apart from giving opportunity of hearing to the person concerned, shall also be required to examine as to whether the line is laid down as per the approved route or not and if he finds that there is substantial change in the route of laying down of the line than the route approved by the Appropriate Government, he may decline to pass the order under section 16(1) of the Telegraph Act. But if he finds that the alteration is minor and not substantial, he may pass the order under section 16(1) of the Telegraph Act.

(i) If the owner or the occupier has raised the dispute concerning to sufficiency of the compensation paid or to be paid by Licensee Company under section 10 (d) of the Telegraph Act, either of the party can move application to the District Judge within whose jurisdiction the property is situated.

(j) The District Judge, before whom the application is made for determination of the dispute for sufficiency of the compensation, shall determine the amount of compensation payable and the decision of the District Judge would be final, of course subject to the right of any aggrieved party to approach before this Court under Article 226 of the Constitution.

(k) But in a case where the alteration in the route of transmission line is already made and the resistance is not shown by the owner or occupier at the relevant point of time, may be on the ground of illiteracy or may be on the ground of lack of knowledge and the owner or the occupier in bonafide has accepted the compensation, then in that case, he will have still right to approach before the District Judge within whose jurisdiction the property is situated by raising the dispute for sufficiency of compensation. But the important aspect is that the compensation under the circumstances would include not only for the loss or damage caused to the property on account of the laying down of the transmission line, but also for alteration made by the transmission company in the approved route.

(l) The last principle observed by us is on account of the peculiar circumstances that the transmission line if already laid down and if already energized by the approval granted, and thereafter, if the removal or the alteration is effected of the transmission line, it may

result into serious consequences of disruption of the electricity supply to a great extent since the line is already energized and therefore, the appropriate mode for default or unauthorized change in the route of transmission line would be to pay additional compensation for the so called breach instead of removal of the transmission line resulting into huge disruption of the power of electricity, consequently to adversely affect huge public interest."

9. Per contra, Mr. S.P. Hasurkar, learned counsel appearing on behalf of the respondent Nos. 2 and 3 has objected the present petition and submitted that the action of the respondent is legal, valid, reasoned and proper exercise of the limited statutory jurisdiction vested with the learned District Magistrate under Section 16(1) of the Act. He has referred to the affidavit-in-reply filed on behalf of the respondent Nos.2 and 3 and submitted that no right, much less any fundamental right, of the Petitioners has been violated by the Respondent. It is submitted that the Respondent is laying the transmission line in exercise of powers of the Telegraph Authority under Sections 10 to 16 of the Indian Telegraph Act, 1885, conferred by the Government of Gujarat under Section 164 of the Electricity Act, 2003. The work is being carried out after due compliance with all statutory requirements, and there is no violation of any mandatory provision of law.

9.1 Learned counsel for the respondent Nos. 2 and 3 has submitted that the Respondent, GETCO, being the State Transmission Utility, is statutorily obligated under Section 39 of the Electricity Act, 2003 to maintain an efficient and economical transmission network across the State and the transmission line in question has been duly approved under Section 68 of the Electricity Act, 2003. It is submitted that out

of 30 locations, work has commenced at 24, and only 6 locations remain, situated on land associated with the Petitioners and due to obstruction by the Petitioners, the Respondent approached the District Magistrate under Section 16(1) of the Telegraph Act, and by order dated April 2022, permission was granted to proceed.

9.2 Learned counsel for the respondent Nos. 2 and 3 has submitted that the alternative routes suggested by the Petitioners are technically unavailable and fall outside the approved alignment. He has submitted that the map relied upon by the Petitioners is incorrect and misleading and in fact, the transmission line runs adjacent to the canal, without encroaching upon adjoining agricultural lands. He has submitted that out of 30 locations, 24 foundations have been completed and none fall on private agricultural land; 4 are on Gram Panchayat land, 14 on land of Gopalak Mandali, and 6 on Panjrapol land. Any internal adjustment in route within Gopalak Mandali land does not affect new landowners. The suggested alternatives would impact new landowners not covered under the approved route, leading to avoidable litigation and delay. It is submitted that multiple discussions were held with the Petitioners, and they were duly informed of the technical infeasibility of their suggestions. The route has been finalized by the competent authority after due consideration. The District Magistrate, after hearing all objections, granted permission for execution of the project. It is further submitted that the challenge to the order dated 01.04.2022 has been made belatedly in March 2026, after an unexplained delay of nearly four years, when the project is

nearing completion. The petition is therefore liable to be dismissed on the ground of delay and laches.

9.3 Learned counsel for the respondent Nos. 2 and 3 has submitted that the Petitioners have no right to seek re-routing of the transmission line. Their remedy, if any, is limited to claiming compensation as per applicable guidelines. The Division Bench of this Hon'ble Court in GETCO v. Ratilal Barot (LPA No. 534 of 2020, decided on 06.11.2020), has categorically held that once approval is granted under Section 164 of the Electricity Act, no landowner can seek alteration of route, and the District Magistrate has no such power. The said judgment has been upheld by dismissal of the Special Leave Petition by the Hon'ble Supreme Court.

9.4 Learned counsel for the respondent Nos. 2 and 3 has submitted that it is settled law that private interests must yield to the larger public good and therefore, the petitioners' obstruction, based on a purely pecuniary claim for compensation, cannot be allowed to halt a project of national importance. He has submitted that different High Courts, including this Court, have repeatedly held that projects of public interest, such as laying electricity transmission lines, cannot be obstructed by landowners, and the landowner's only right is to claim compensation for damages and thus, the balance of convenience lies overwhelmingly with this respondent, and the petition, which seeks to stall this project, is contrary to public interest and liable to be dismissed. He has submitted that the petitioners' entire case is premised on the fundamental misconception that their consent is required,

which is legally false, as the Hon'ble Apex Court, in case of **Power Grid Corporation of India Ltd. v. Century Textiles & Industries Ltd.**, reported in **[2017] 5 SCC 143**, has unequivocally settled this position. The Apex Court held that *"the S. 164 authorization effectively bestows the powers of the Telegraph Authority upon the licensee (like this Respondent). Once S. 164 is invoked, the provisions of the Telegraph Act, 1885, apply. Section 10 of the Telegraph Act does not require the consent of the landowner. The only right of the landowner is to seek compensation under Section 10(d) and, if aggrieved by its sufficiency, to approach the District Judge under Section 16(3)"*. He has submitted that this Court, in judgment rendered in **LPA No. 882 of 2011 (Himatbhai Vallabhbhai Patel v. Chief Engineer, GETCO)**, has held in the same line, affirming that transmission utilities can erect power lines without landowner consent under Section 164 and thus, the petitioners' objection is contrary to the binding law of the land.

10. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. The issue involved in the present petition is that whether the respondent is empowered under Section 16(1) of the Act to adjudicate and while adjudicating the powers vested in him under the Act, whether the respondent can pass such order without giving any opportunity or without there being any issuance of notice or prior intimation or not and whether the respondent No.1 was right and justified in passing such order or not.

11. Before dwelling into the issue involved in the present petition, the provisions of Sections 67, 68 and 164 of the Indian Electricity Act, 2003 are required to be looked into, which are reproduced hereunder :

Section 67 : Provisions as to opening up of streets, railways, etc. --

(1) A licensee may, from time to time but subject always to the terms and conditions of his licence, within his area of supply or transmission or when permitted by the terms of his licence to lay down or place electric supply lines without the area of supply, without that area carry out works such as -

(a) to open and break up the soil and pavement of any street, railway or tramway;

(b) to open and break up any sewer, drain or tunnel in or under any street, railway or tramway;

(c) to alter the position of any line or works or pipes, other than a main sewer pipe;

(d) to lay down and place electric lines, electrical plant and other works;

(e) to repair, alter or remove the same;

(f) to do all other acts necessary for transmission or supply of electricity.

(2) The Appropriate Government may, by rules made by it in this behalf, specify, -

(a) the cases and circumstances in which the consent in writing of the Appropriate Government, local authority, owner or occupier, as the case may be, shall be required for carrying out works;

(b) the authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;

(c) the nature and period of notice to be given by the licensee before carrying out works;

(d) the procedure and manner of consideration of objections and suggestion received in accordance with the notice

referred to in clause (c);

(e) the determination and payment of compensation or rent to the persons affected by works under this section;

(f) the repairs and works to be carried out when emergency exists;

(g) the right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor;

(h) the procedure for carrying out other works near sewers, pipes or other electric lines or works;

(i) the procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;

(j) the procedure for fencing, guarding, lighting and other safety measures relating to works on streets, railways, tramways, sewers, drains or tunnels and immediate reinstatement thereof;

(k) the avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works;

(l) the procedure for undertaking works which are not repairable by the Appropriate Government, licensee or local authority;

(m) the manner of deposit of amount required for restoration of any railways, tramways, waterways, etc.;

(n) the manner of restoration of property affected by such works and maintenance thereof;

(o) the procedure for deposit of compensation payable by the licensee and furnishing of security; and

(p) such other matters as are incidental or consequential to the construction and maintenance of works under this section.

(3) A licensee shall, in exercise of any of the powers conferred by or under this section and the rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(4) Where any difference or dispute [including amount of compensation under sub-section (3)] arises under this section, the matter shall be determined by the Appropriate Commission.

(5) The Appropriate Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3), may impose a penalty not exceeding the amount of compensation payable under that sub-section.

Section 68. Provisions relating to Overhead lines.--

(1) An overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).

(2) The provisions contained in sub-section (1) shall not apply-

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or

(c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such

compensation as he thinks reasonable, and such person may recover the same from the licensee.

Explanation. - For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant.

Section 164. Exercise of powers of Telegraph Authority in certain cases.--

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 works, 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, 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.

11.1 The provisions of Sections 10, and 16 of the Indian Telegraph Act, 1885 are also required to be looked into, which are reproduced hereunder :

Section 10. Power for telegraph authority to place and maintain telegraph lines and posts.--

The telegraph authority may, from time to time, 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 purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;

b. the [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across in or upon which the telegraph authority places any telegraph line or post; and

c. except as hereinafter 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; and

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.

Section 16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.--

(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for this being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(3) 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.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who

has received the same.

11.2 Looking to the facts of the case it appears that the respondent issued a public advertisement which was published in the Gujarat Government Gazette dated 8.9.2016 for the general public living in the area which is mentioned in the said notification who were going to be affected or who were likely to be affected by laying down the lines under the said scheme for their knowledge and intimation. By the said public notice, objections were invited from the interested persons or the affected persons. As per Section 12 of the Indian Electricity Act, 2010, consent of the local authority or the concerned owner or the occupier was necessary to enable licensee to lay down or place any electric supply-line, or other work in, through or against any building, or on, over or under any land not dedicated to any public use whereon, wherever or whereunder any electric supply-line or work was not already been lawfully laid down by such licensee. Under Section 51 of the Electricity Act, 1910, it was permissible for the Government to confer upon any public officer, Transmission Utility, Transmission Licensee or any other person engaged in the business of transmission or supplying energy to the public, any of the powers which the telegraph authorities possess under the Indian Telegraph Act, 1885 for placing of the electric supply-lines. The aforesaid provisions have now been substituted with the provisions of new Indian Electricity Act, 2003. The Division Bench of this Court had an occasion to deal with similar submission while deciding the Letters Patent Appeal No.882 of 2011. The observations made by the Division Bench is useful for this Court to refer and rely

upon, which is reproduced hereunder :

"It is evident on plain reading of the public notice that objections were invited from license or any other person interested on or before completion of two months after the publication of the notice for consideration of the Nigam. It is an undisputed position that no objections were raised at the relevant point of time in response to the public notice dated 29th July 2010.

As noticed above, prior to the enactment of the Electricity Act, 2003, the Indian Electricity Act, 1910, and the Electricity (Supply) Act, 1948 were in force and there were various provisions governing erection of transmission lines or other connected work through, in or upon or under the private lands."

11.3 Considering the similar submissions made on behalf of the respondents that the notice merely broadly describes the area through which the proposed overhead electricity line would be passing i.e. proposed route of the line would be passing and there is no need to specifically mention that from this particular land, the supply-line is to be passed and to be laid down and therefore, under such circumstances and in view of the observations made by this Court in case of in case of ***Jaisinh Parshottambhai Patel (supra)*** I am in complete agreement with the submissions made on behalf of the respondents. The Hon'ble Apex Court while enunciating the principles in case of **Power Grid Corporation of India Ltd. (Supra)** has observed that for laying down any electricity supply-line by the licensee, there is no prior consent required by the licensee under the Indian electricity Act, 2003 and herein the present case, the respondent has been treated as authority under the Act of 1885. The Hon'ble Apex Court has also further considered that it is the Central Government which is the Appropriate Government in respect of a generating company wholly or partly owned by it, and

therefore, the contention raised by the petitioners that prior permission of the petitioners was not obtained as it is required under the law is completely ousted by the Hon'ble Apex Court. Considering all these aspects, this Court is of the opinion that the present petition is required to be dismissed.

12. For sake of convenience, it is appropriate to refer the observations made by this Court in LPA No. 534 of 2020, wherein this Court has held as under:-

"58.16 Section 16 states that if there is any resistance or obstruction, the District Magistrate may in his discretion, order that the telegraph authority shall be permitted to exercise all the powers. Further, after such an order, a person offering any further resistance is deemed to have committed offence under Section 188 of the Indian Penal Code. Once the technical feasibility of the project, has been approved by the appropriate Government, by issuing an order under Section 164 of the Electricity Act, 2003, no land owner or person interested can seek for shifting or re-aligning of the route, on the premise that the District Collector-cum-District Magistrate, has the powers to do so. The District Collector has no powers to alter any route or alignment, except to remove the difficulties faced by the licensee or the person authorised, pursuant to the orders issued under Section 164 of the Act."

13. In view of the above and considering the fact of the case the present petition, being devoid of any merits, deserves to be dismissed and it is accordingly, dismissed. Rule is discharged. There shall be no order as to costs.

14. It is, however, open for the petitioners that in case, they are entitled for compensation, the appropriate course of action to file an application for compensation is before the District Magistrate for this purpose as provided by the Government of Gujarat time and again, which came to be amended as it was noticed from all three notifications. As and when such application is filed by the petitioners for

compensation, the same shall be decided by the concerned District Magistrate in accordance with law, after affording proper opportunity to the petitioners. It is also open for the petitioners to avail remedy as per the guidelines issued by the State Government.

SURESH SOLANKI

**Sd/-
(HEMANT M. PRACHCHHAK,J)**