



2026:HHC:33131

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP Nos.3651 of 2023 & 4561 of 2025

Decided on: 07.08.2026

1. CWP No.3651 of 2023

M/S JP Power Grid Ltd.

.....Petitioner

Versus

Suresh and Ors.

....Respondents

2. CWP No.4561 of 2025

Suresh and Ors

.....Petitioners

Versus

M/S JP Power Grid Ltd & anr

....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Narender Sharma & Ms. Minakshi Sharma, Advocates, for the petitioner in CWP No.3651 of 2023 and for the respondents in CWP No.4561 of 2025.

For the Respondents: Mr. B.M.Chauhan, Sr. Advocate, for the respondents in CWP No.3651 of 2023 and for the petitioners in CWP No.4561 of 2025.

Jyotsna Rewal Dua, Judge

These two writ petitions arise out of award dated

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.



21.01.2023, passed by the learned Additional District Judge-II, Shimla, Camp at Theog, partly allowing the claim of the landowners, holding them entitled to Rs. 29,24,882/- as compensation alongwith interest @ 9% per annum from the date of filing of the petition till realization of the amount. For convenience, the landowners hereinafter are mentioned as the petitioners and the project beneficiary as the respondents.

2. Heard and considered the case files.

Petitioners were owners in possession of the land comprised in Khasra Nos. 140,141 and 624, measuring 01-76-25 hectares, situated at Mouja Pajol, Tehsil Kotkhai, District Shimla, H.P. Petitioners had planted an apple orchard over parts of the aforesaid land and had also grown vegetable crops. The respondent-Company constructed 400 KV/DC Karchham-Wangtoo-Abdulapr electricity transmission line. For this purpose, respondent constructed a tower upon petitioners' land comprised in Khasra Nos. 140 & 141 whereas, two legs of another tower were raised upon petitioners' land comprised in Khasra No. 624, utilizing 4 bighas of petitioners' land. Petitioners raised claim under the Telegraph Act before the



learned Court below contending that in the process of constructing the transmission towers and stringing of the transmission line, respondent had caused damage to 87 apple trees standing over the subject land. Petitioners also alleged damage caused to the vegetable crops grown by them over parts of the land in question. Respondents refuted petitioners' claim.

On considering the entire case, learned Additional District Judge-II Shimla, Camp at Theog, held that petitioners had established on record complete damage caused to 87 apple fruit bearing trees of good quality, as also damage caused to their vegetable crops of peas, cauliflowers, potatoes, French beans and turmeric etc.. The total loss caused to the apple trees and vegetables was quantified as Rs. 33,10,059/- (Damage to the apple orchard) + Rs.4,88,215/-(Damage to the vegetables) = Rs.37,98,274/-. After adjusting the amount already paid to the petitioners, the balance amount payable was worked out at Rs.37,98,274-Rs.8,73,392/- (sic Rs.9,80,047/-) = Rs.29,24,882/- (sic Rs.28,18,227/-). Interest @ 9% per annum on the aforesaid compensation from the date of filing of the petition was also awarded. Both sides feel aggrieved against the aforesaid award.



3 Learned counsel for the respondent submitted that during the process of construction of transmission line and also the stringing operations, only 65 apple trees were damaged; Learned Additional District Judge-II, Shimla, Camp at Theog, had unjustly relied upon the report Ex. PW5/A as also the report Ex. PW2/A in passing the impugned award, holding the complete damage having been caused to 87 apple trees.

Per contra, learned Senior counsel for the petitioners, besides inviting attention to the statements made by the witnesses and the documents exhibited by them, also invited attention to the receipts appended alongwith application bearing CMP No. 20161/2026 filed in CWP No. 3651 of 2023. The said application has been moved for placing on record documents [Annexure R-1 (colly)]. Application is with the averments that appended documents form part of the lower Court file, though reference to the same had been made in the reply filed by the petitioners to CWP No. 3651 of 2023, however inadvertently, the documents could not be made part of the reply. The above position of documents being part of Lower Court record has not been disputed by the learned counsel for the respondents. In this view of the matter, the



application is allowed, the documents appended therewith are taken on record and have also been considered for adjudicating these writ petitions.

These documents include the receipts issued by the respondent company. The receipts have not been disputed by the respondents. In terms of these receipts, the respondent company has acknowledged not partial damage, but complete damage, that too to all 87 apple trees over the subject land.

It is well settled that in exercise of jurisdiction under Article 226 of the Constitution of India, this Court cannot reappreciate evidence and arrive at finding of facts unless the authorities below had either exceeded the jurisdiction or acted perversely. Reference in this regard can be made to the judgment passed by the Hon'ble Apex Court in **Ajay Singh Vs. Khacheru & Ors**²:-

- “16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.*
- 17. On the said settled proposition of law, we must make reference to the judgment of this Court in Chandavarkar*

² (2025) 3 SCC 266



*Sita Ratna Rao v. Ashalata S. Guram*³. The relevant portion thereof reads as under:

“16. ... It is well settled that the High Court can set aside or ignore the findings of fact of an appropriate court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the courts below have come or in other words a finding which was perverse in law. This principle is well settled. In *D.N. Banerji v. P.R. Mukherjee* [(1952) 2 SCC 619] it was laid down by this court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities. ...”

18. The above said proposition of law was reiterated in *Shamshad Ahmad v. Tilak Raj Bajaj*⁴, wherein it was observed that:

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

³ (1986) 4 SCC 447

⁴ (2008) 9 SCC 1



Petitioners' case had been that they had suffered complete loss of 87 trees, as also damage to their vegetable crops, on account of construction of transmission tower and stringing operation carried out by the respondents over the land in question. Petitioners' stand has been vindicated by the concerned Patwari, PW-2. He had proved his report, Ex. PW-2/A. Assessment of the damage has been proved on record by the expert, a retired Deputy Director, Horticulture, who appeared as PW-5, and proved his evaluation report, Ex. PW-5/A. Further, the receipts placed by the petitioners alongwith the application, which are admittedly part of the record of the learned Lower Court, completely belie the stand taken by the respondents in denying complete loss to 87 any fruit-bearing apple trees.

Learned counsel for the respondents raised a faint submission that the subject expert produced by the petitioners i.e. PW-5, had not prepared the report after inspecting the spot. However, no cogent evidence has been led by the respondents to disprove the expert report, Ex. PW-5/A. The statements and reports are in conformity with each other. There is no contradiction as alleged. The respondents did not even lead any evidence of an expert, etc., to disprove the case set up by the petitioners.



5. For the aforesaid reasons, I do not find any reason to interfere with the award passed by the learned Additional District Judge-II Shimla, Camp at Theog, holding that the petitioners were entitled to Rs. 37,98,274/- on account of loss caused to their apple trees and vegetable crops. After adjusting the amount already paid to the petitioners, the balance amount payable was worked out at Rs.37,98,274-Rs.8,73,392/ (sic Rs.9,80,047/-) = Rs.29,24,882/- (sic Rs.28,18,227/-) along with interest at 9% per annum from the date of filing of the petition. The error in the calculation in the award passed by the learned Additional District Judge-II Shimla, Camp at Theog, shall stand modified as indicated above. Accordingly, CWP No. 3651 of 2023, being devoid of merit, is dismissed.

At this stage, learned Senior counsel for the petitioners sought permission to withdraw CWP No.4561 of 2025, fairly submitting that relief of compensation for the subject land on account of raising of towers/transmission line, as prayed for in this writ petition, cannot be granted by the learned District Judge and therefore, petitioners' challenge to this an extent to the award dated 21.01.2023 for claiming the relief, is not sustainable. Learned Senior Counsel, however, prayed to withdraw this writ petition



with liberty reserved to the petitioners to seek appropriate remedy in accordance with law, for the redressal of their grievances raised in this writ petition.

Granting such liberty, CWP No.4561 of 2025 is dismissed as withdrawn.

Pending miscellaneous application(s), if any, also to stand disposed of.

August 07, 2026
R.Atal

Jyotsna Rewal Dua
Judge