



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

THURSDAY, THE TWENTIETH DAY OF JULY,
TWO THOUSAND AND TWENTY THREE

:Present:

Justice C.V. Nagarjuna Reddy, Chairman
Sri Thakur Rama Singh, Member
Sri P.V.R.Reddy, Member

Revision Petition No.1 of 2022

BETWEEN:

- 1) Mahaveer Kumar, S/o Ghewarchand,
Age: 53 years, Occ: Business,
R/o D.No: 22-10-132, Rekapalli Vari Street, Lalapet,
Guntur, Guntur District, Andhra Pradesh.
- 2) Ghewarchand, S/o Jawajaa, Age: 80 years,
Occ: Business, R/o D.No: 22-10-132, Rekapalli Vari Street,
Lalapet,, Guntur, Guntur District, Andhra Pradesh.
- 3) Kapil Kumar, S/o Mahaveer Kumar, Age; 30 years,
Occ: Business, R/o D.No: 22-10-132, Rekapalli Vari Street,
Lalapet, Guntur, Guntur District, Andhra Pradesh.
- 4) Mutta Rajendra Kumar, S/o Ghewarchand.
Age: 47 years, Occ: Business, R/o D.No: 22-10-132,
Rekapalli Vari Street, Lalapet, Guntur, Guntur District,
Andhra Pradesh.

...Petitioners

AND

- 1) The District Collector, Guntur Collectorate(Sub Office),
Guntur, Andhra Pradesh (AP), Pin Code:- 522004.
- 2) Department of Energy, Rep by its Principal Secretary,
Government of Andhra Pradesh, Amaravathi Post, AP.

3) APCPDCL (Andhra Pradesh Southern Power Distribution Corporation Limited), Rep by Chief Engineer, Vijayawada.

4) APCPDCL (Andhra Pradesh Southern Power Distribution Corporation Limited), Rep by Superintending Engineer, Operation Circle, 7FJ4+V36, Gandhi Nagar, Guntur, Andhra. Pradesh 522001.

5) The Revenue Divisional Officer, Guntur, Guntur District, AP.

...Respondents

This Revision Petition has come up for final hearing before us on 28-6-2023 in the presence of Sri Mandapati Murali Krishna, learned counsel for the petitioners; Sri P. Shiva Rao, learned Standing Counsel for respondents 3 and 4; and none having appeared on behalf of respondents 1,2 and 5, that after carefully considering the material available on record and after hearing the arguments of the learned counsel for the parties, the Commission passed the following:

ORDER

This Revision Petition is filed feeling aggrieved by the Order dated 08-12-2021, vide: Proceedings RC No.2284/2019-G1 of the District Collector, Guntur-respondent No.1. The petitioners sought for a direction to the respondents to pay compensation in terms of Section 10(d) of the Indian Telegraph Act, 1885 read with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; and also as per G.O.Ms.No.6, Energy Infrastructure and Investment (Power-III) Department, dated 6-3-2017; and G.O.Rt.No.83, Energy Infrastructure & Investment (Power-II A2) Department, dated 20-6-2017.

The brief facts, leading to filing of the present Revision Petition, are summarised as under:

- a) The petitioners claimed that they have purchased land admeasuring an extent of 3630 Sq. yards falling under D.No.975/B/1 of Guntur Municipal Corporation from its original owners under different sale deeds as under:

Sl.No	Description of the petitioner	Document No.	Extent
1.	Sri Meher Kumar-Petitioner No.1	4268/13	800 Sq.yards
2	Sri Ghewarchand-Petitioner No.2	4269/13	850 Sq.yards
3	Sri Kapil Kumar-Petitioner No.3	4267/13	800 Sq.yards
4	Sri Mutta Rajendra Kumar-Petitioner No.4	7186/12	750 Sq.yards
5	Sri Mutta Rajendra Kumar-Petitioner No.4	8089/11	460 Sq.yards

The petitioners also claimed that their properties are adjacent to the Electric Sub-Station at Ponnur road; that, all of a sudden, without any notice, respondents 3 and 4 have erected 10 big electric poles for laying 132/33 KV overhead electric lines; that the said respondents have also drawn numerous electrical wires passing over the subject land making it completely unviable for residence and also to raise any constructions; and that when the said lands were purchased, no electrical poles or wires were in existence over the subject lands. According to the petitioners, erection of electrical poles and drawal of wires was not only illegal, but also in violation of Article 300-A of the Constitution of India.

- b) The petitioners have questioned the said action of the respondents, by filing Writ Petition No.6467 of 2019, before the Honourable High Court of A.P., which was disposed of by order dated 1-5-2019, wherein a direction was issued to respondent No.1 to consider the petitioners' representations dated 18-2-2019 and 09-4-2019 by passing appropriate orders within four weeks from the date of receipt of a copy of the said order.
- c) In pursuance of the said direction, respondent No.1 has issued notice to both the parties and passed an Order on 08-12-2021.
- d) On behalf of APSPDCL, to whom respondent No.3 has succeeded, a detailed statement of facts was submitted before respondent No.1. It was, *inter alia*, pleaded before respondent No.1 that the 132/33 KV Budampadu Sub-station was in existence by 17-9-1996 itself; that the said Sub-station was constructed predominantly for feeding Guntur City; that the outgoing electrical lines of the Sub-station are passing through private lands, which are very adjacent to the said Sub-station; that all those lines were erected very long back, which is about 42 years ago; and that the lands were purchased by the petitioners with the knowledge of existence of electrical lines. It was further stated that the supports to the electrical lines were also in existence; that due to corrosion and erosion those supports were damaged and to avoid untoward incidents and to maintain ground clearance as per Rule 77 of

the Indian Electricity Rules, 1956 the old supports were replaced with new supports duly providing associated struts. Respondent No.3 has also taken the stand that as per G.O.Rt.83, dated 20-6-2017 payment of compensation for Transmission lines, supported by Tower base of 66 KV and above is permissible; and that the existing lines passing over the petitioners' lands are only 33 KV lines; and, hence, payment of compensation is not allowed.

- e) Having considered the respective stands of the petitioners and respondent No.3, respondent No.1 has rejected the claim of the petitioners for payment of compensation.
- f) Feeling aggrieved by the said order, the petitioners filed the present Revision Petition.

As noted above, the premise on which the petitioner is claiming compensation is that when the subject lands were purchased there were no electrical poles or wires over the same and that without the petitioners' knowledge or consent the respondents had erected the poles and wires over their property.

A detailed counter, styled as reply, has been filed by the Superintending Engineer (respondent No.4) of APCPDCL (respondent No.3). It has been stated therein that the 132/33 KV Sub-station has been functioning from the year 1976; that the 33 KV lines emanating from the said Sub-station are passing through the petitioners' lands since more than 30 years; that as two

electric poles were found damaged due to rust and they were replaced in the year 2018 in pursuance of Proceedings No.CE/Zone/VZA/IPDS No.06/2018-19, dated 23-5-2018. It has been asserted in the reply that since the 33 KV lines are in existence much prior to the purchase of the lands by the petitioners, they are not entitled to claim any compensation. In the reply respondent No.3 has denied the allegation that they have erected 10 huge electric poles for laying 132/33 KV overhead lines. Respondent No.3 has also denied that the petitioners are entitled for compensation under Section 164 of the Electricity Act, 2003 read with Section 10(d) of the Indian Telegraph Act, 1885.

The petitioner has filed a rejoinder.

During the hearing on 16-11-2022 the Commission has noted that a serious dispute exists as to whether the respondents have merely substituted two rusted iron poles or erected new poles with struts occupying the petitioners' lands. The Commission felt that as the findings of the Collector do not appear to have been supported by proper evidence and the same being based on the averments of the respondents, it is appropriate to depute one of the Officers of the Commission to physically inspect the premises in question in order to find out whether only two rusted poles have been replaced or fresh poles have been erected along struts. Accordingly, the Deputy Director (Planning and Power Procurement) of the Commission was authorised to inspect the premises. The Officer was, *inter alia*, directed to peruse the record

and prepare his report based on his local inspection and also on the record. He was directed to issue notice to both the parties before conducting inspection. The Secretary of this Commission has issued a notice on 05-1-2023 to the respondents as well as to the counsel for the petitioners duly intimating that on 19-1-2023 the Authorised Officer will be inspecting the subject lands. Accordingly, the Deputy Director (PPP) conducted his inspection on 19-1-2023. After the inspection, the Deputy Director (PPP) submitted his report dated 23-1-2023.

On 08-2-2023 the Commission directed the Office to furnish copies of the Inspection Report to the learned counsel for both the parties, while permitting them to file their objections/comments, if any. Copies were, accordingly, furnished. The case underwent two adjournments since then. On 26-4-2023 Sri Mutyala Praveen, counsel representing Sri M. Muralikrishna, learned counsel for the petitioners, requested an adjournment as the counsel on record was not well. Accordingly, the case was adjourned to 28-6-2023.

On 28-6-2023 when the Commission pointedly asked the learned counsel for the petitioners whether any objections/comments have been filed against the Inspection Report, the learned counsel replied in the negative. After hearing, orders were reserved.

Having regard to the respective pleadings of the parties and the varying stands taken by them, the point for determination is:

“Whether the petitioners are entitled to any compensation?”

LEGAL POSITION:

The power to lay electrical lines by a Licensee requires to be discussed both with reference to the provisions of the Statutory Enactments existing prior and subsequent to the provisions of the Electricity Act, 2003. The reason being, as per the petitioners' version, the line was laid after they purchased the lands i.e., post 2013. However, as per the respondents, the lines were laid much prior to commencement of the Electricity Act, 2003 and that what was done in the year 2018 was only replacement of two poles with supports.

PRE 2003 POSITION:

Section 51 of the Indian Electricity Act, 1910 (Act No. 9 of 1910) reads as under:

"Sec.51. Exercise in certain cases of powers of telegraph authority -

Notwithstanding anything contained in Sections 12 to 16 (both inclusive) and Sections 18 and 19, the Central Government in the case of inter-State transmission system and the State Government in the case of intra-State transmission system, as the case may be, may, by order in writing, for placing of electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communications necessary for the proper coordination of works, confer upon any public officer, Central Transmission Utility, State Transmission Utility, licensee, transmission licensee or any other person engaged in the business of transmission or supplying energy to the public under this Act, subject to such conditions and restrictions (if any) as the Central Government or the State Government, as the case may be, 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".

Section 42 of the Electricity (Supply) Act, 1948 deals with the Powers of the Electricity Boards for placing wires, poles etc. This provision reads as under:

“42. POWERS TO BOARD FOR PLACING WIRES, POLES, ETC.-

(1) Notwithstanding anything contained in Sees. 12 to 16, 18 and 19 of the Indian Electricity Act, 1910 (9 of 1910), but without prejudice to the requirements of Section 17 of that Act where provision in such behalf is made in a sanctioned scheme, the Board shall have, for the placing of any wires, poles, wall-brackets, stays apparatus and appliances for the transmission and distribution of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper coordination of the works of the Board, all the powers which the telegraph authority possesses under Part III of the Indian Telegraph Act, 1885 (13 of 1885) with regard to a telegraph established or maintained by the Government or to be so established or maintained.

Provided that where a sanctioned scheme does not make such provision as aforesaid, all the provisions of Sections 12 to 19 of the first mentioned Act shall apply to the works of the Board.

(2) A Generating Company may, for the placing of wires, poles, wall brackets, stays apparatus and appliances for the transmission of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper coordination of the works of the Generating Company, exercise all or any of the powers which the Board may exercise under subsections (1) and subject to the conditions referred to therein”.

Section 10 of the Indian Telegraph Act, 1885, which empowers the Telegraph Authority to place and maintain telegraph lines and made applicable to Electricity Board/Licensee, reads as under:

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”.

By virtue of Section 42 of the Electricity (Supply) Act, 1948, read with Section 10 of the Indian Telegraph Act, 1885, the Electricity Boards used to lay the electrical lines without acquiring the private lands. Such an action was upheld by the Courts of different jurisdictions in India, eg: a Full Bench Judgement of Kerala High Court in **Mammoo Vs. State of Kerala (1979 Kerala Law Times 801)**; **Binapani Basu Vs. Union of India (AIR 1984 Calcutta 258)**; **Maharashtra State Electricity Board Vs. Janardhan Bhausaheb Desai (AIR 1988 Bombay 75)**; **Bharat Plywood and Timber Products Private Ltd Vs. Kerala State Electricity Board, Trivandrum (AIR 1972 Kerala 47 Full Bench)**.

In ***Jiviben Motibhai Patel Vs. Executive Engineer (C&M), Gujarat Electricity Board, Baroda***¹, the Gujarat High Court observed as under:

“It becomes very clear from the provisions of Section 10 to 19 of the Indian Telegraph Act coupled with provisions of Section 51 of the Indian Electricity Act that the Board was not required to obtain consent of the

¹) (1996 (1) GLR 470)

petitioner for doing the impugned work or for any works as defined in Section 2(n). It is also not obligatory on the part of the competent authority which has been conferred powers of the Indian Telegraph Act under Section 10 of the said Act, to issue prior notice to the owner of the property over which electric supply line is proposed and before exercising power under Section 10. In view of the conjoint reading of the provisions of Section 51 of the Electricity Act and Section 10 of the Indian Telegraph Act, for exercise of powers in laying down poles and construction of electric line, consent or prior intimation was not necessary. The only right to the owner or the occupier, as the case may be, is to claim compensation. Compensation has already been awarded by the Additional District Magistrate. Therefore, the act of placing poles and laying overhead electric lines in the field of the petitioner cannot be said to be unauthorised in the absence of prior permission of the District Magistrate”.

In ***H.Bhadur Singh Vs. The Divisional Engineer, Andhra Pradesh State Electricity Board, Transmission Line Division***², the Honourable High Court of Andhra Pradesh held as follows:

"By virtue of S.42 of the Electricity Supply Act vesting in the Board the power possessed by the Telegraphic authority, the Board for the limited purpose of erecting a transmission line is not obliged to acquire any land belonging to any person.

The grievance of the petitioner is that he will be put to much loss and damage due to erection of poles. If the petitioner is really aggrieved by the action of the respondents, he has got a right to claim compensation and this is not the proper forum for redressal of his grievance, if any. When the Board has got ample power to lay the lines for public purpose and in public interest without recourse to the provisions of the Land Acquisition Act, the petitioner has no right to question the same in writ proceedings under Article 226 of the Constitution. There are no merits warranting interference by the High Court. The petitioner is at liberty to claim compensation before the competent authority, if he so desires”.

A learned Single Judge of the Madras High Court has reiterated the above position in his painstaking Judgement in ***T.Bhuvaneswari Vs. The***

²) (1991) 2 Andhra Law Times Page 7

District Collector-cum- District Magistrate, Erode³.

There have been a plethora of other decisions taking a similar view as discussed above, reference to which is not necessary to avoid multiplication.

While the above was the position regarding the power to lay electrical lines over private lands without need for acquiring the property, no specific provisions were framed for determination of compensation. Section 10(d) of the Indian Telegraph Act, 1885 is the only provision on which compensation used to be awarded. Even the said provision also used to be interpreted in a restrictive sense, viz., that if any damage to the crop or land was caused while laying lines, the land-owner was held to be entitled to some nominal compensation.

POST 2003 POSITION:

However, things changed for better for the land owners with the advent of the Electricity Act, 2003. Section 67 of the said Act empowered the appropriate Government to make Rules, *inter alia*, specifying the determination and payment of compensation or rent to the persons affected by works regarding laying down or placing electric supply lines by the licensee. Under sub-section (3) thereof, an obligation is cast on the licensee to make full compensation for any damage, detriment or inconvenience caused by him or anyone employed by him while carrying out the works over the private lands. Under sub-section (4), where any difference or dispute arises in determination

³) Order in WP No.18548 of 2013 dated 29-11-2013.

of compensation, the matter shall be determined by the appropriate Commission.

Section 164 of the Electricity Act, 2003 empowered the appropriate Government to confer upon any Public Officer, Licensee or any other person engaged in the business of supplying electricity under the Act for 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 coordination of works, 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 purpose of telegraph established or maintained by the Government or to be so established or maintained.

in **Power Grid Corporation of India Limited v. Century Textiles and Industries Limited and Others**⁴ the Honourable Supreme Court, while examining Section 164 of the Electricity Act, 2003, had, *inter alia*, observed that Clause (d) of Section 10 of the Telegraph Act, 1885 requires that the telegraph authority shall do as limited damage as possible in exercise of powers to place and maintain telegraph lines and posts, and full compensation shall be paid to all persons interested for any damage sustained by them. The Apex Court also observed in para 26 thus:

⁴) (2017) 5 SCC 143

“ 26. We also do not find that the action of the Power Grid, in the given circumstances, by not shifting the transmission lines was arbitrary. From the facts noted above, it becomes apparent that not only it was unfeasible to change the alignment as almost entire work had already been completed by the time the writ petitioner started protesting against this move, even otherwise, the Power Grid has given sufficient explanation to point out that all relevant factors/aspects were kept in mind while laying down the impugned transmission lines. Such transmission lines had to be in straight line to the extent possible for eliminating loss of transmission. It is also explained that electricity transmission is usually laid or crossed over agricultural land where minimum extent of land gets utilised for erecting towers and where agricultural activities are not prejudiced/obstructed in any manner. The purpose is to avoid buildings, religious places, ponds, etc. while laying down these transmission lines. It is only when it becomes inevitable that towers are placed on the private lands to the minimum and least extent possible. That is what was tried to achieve in the instant case. Another important factor, which needs repetition at this stage is that no blasting is permissible within 300m from the 400 kV line (already existing) or the tower structure. Mining of limestone can be taken up by adopting the methods other than use of explosive/blasting — without damage to the tower foundation/tower structure or the line, which can be accomplished by using jack hammer/pneumatic hammer with compressor so as to avoid any damage to the line or tower. This aspect has also been taken note of by the learned Single Judge of the High Court in the judgment dated 11-3-2008. The Division Bench did not differ with any of these findings.”

Referring to the Judgment in **Power Grid Corporation of India Limited (4 supra)** a Three Judge Bench of the Apex Court in **Century Rayon Limited Vs. IVP Limited and others**⁵ observed thus:

“The decision highlights the imperative and the need for unobstructed access for laying down the electricity transmission lines in the larger public interest as these are essential requirements for growth and development of the country, economy and well-being of the citizens”.

In **Kerala State Electricity Board Vs. Livisha and others**⁶ the Honourable Supreme Court held that the District Magistrate shall, while

⁵) Judgment dt.27-11-2019 in Civil Appeal No.9063 of 2919 arising out of SLP (Civil) No.6243 of 2919

⁶) (2007) 6 SCC 792

awarding compensation, also consider “the situs of 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 The value of the land would also be a relevant factor.”

From the above Judgments rendered post-Electricity Act, 2003, it is clear that the position as prevailed during the pre-2003 Act period regarding the powers of the appropriate Government to permit laying of electrical lines by the Licensee or other authorised persons remained to continue. However, the provisions were made somewhat liberal in awarding damages and loss due to diminution in value of the land. Indeed, taking a cue from the above change in the position, the State Government of Andhra Pradesh, in exercise of its rule making power, has framed the Andhra Pradesh Works of Licensees Rules, 2007. These Rules are *pari materia* with the Works of Licensees Rules, 2006 issued by the Government of India. Under Rule 13, where the licensee makes default in complying with any of the provisions of these Rules, he shall make full compensation for any loss or damage incurred by reason thereof to the person affected, as may be determined by the District Magistrate or by any other officer authorised by the State Government in his behalf. This Rule also envisages that where any difference or dispute arises as to the amount of compensation determined under sub-rule (1), the matter shall be determined by the Commission.

The Government of Andhra Pradesh issued G.O.Rt.No.83, Energy Infrastructure & Investment (Power-II A2) Department, dated 20-6-2017, based on the recommendations made by a Committee constituted in pursuance of a decision taken during the Power Ministers' Conference held on 9th/10th April, 2015 at Guwahati, as per which, compensation for damage to the crop and trees is payable in respect of the electrical lines of voltages. However, in respect of transmission lines supported by a tower base of 66 KV and above, 100% of land value for tower base area (between four legs) is envisaged in addition to payment of compensation for Right of Way (RoW) corridor towards diminution of land value subject to a maximum of 10% of the land value as determined, based on Circle rate/Guideline Value/Stamp Act rates.

Further discussion on the methodology to determine the compensation need not be undertaken in this case as the Commission, for the reasons to be recorded infra, proposes to concur with the conclusions of respondent No.1 that no compensation is payable to the petitioners in the instant case. Suffice it to observe that unless the petitioners are able to establish that fresh electric lines were laid on their lands after commencement of the Electricity Act, 2003 and A.P. Works of Licensees Rule, 2007 and further able to establish that such compensation is payable under the 2007 Rules, they will not be entitled to award of any compensation.

Deputy Director's Report:

As noted hereinabove, the main stand of the petitioners is that when they have purchased the lands, there were no poles or wires in existence over the petitioners' lands and that they were laid only after their purchase of lands.

Per contra, the specific case of respondent No.3 is that the Substation and the electrical lines have been in long existence and that what has been done was only replacement of two electrical poles along with struts.

In his report, the Inspecting Officer has reported that the Substation PTRs, Associated 132 KV, 33 KV base along with Protection Breakers (Oil Circuit Breakers), Incoming 132 KV and outgoing 33 KV lines were charged on 17-9-1976. The Officer has enclosed a detailed sketch on 132/33 KV Sub-station as Annexure-I. It is further stated that at the time of commissioning of the Sub-station 33 KV protection was done with Oil Circuit Breakers; that, subsequently, due to upgradation of the Electrical Protection System, the Oil Circuit Breakers were replaced with Vacuum Circuit Breakers in a phased manner. He has given the details of the dates of replacement of the Breakers in a separate table. Serial Nos.6 and 7 relate to the disputed feeders i.e., 33 KV Tadepalli, CKT 1 and 2. The Officer noted that the Breakers were changed on 1-10-2001 and 2-6-2006 respectively. It is also mentioned in the report that for take off arrangement for the named 11 Nos 33 KV feeders from 33 KV bay of the Substation, 1 No., main pole and its supporting strut pole/stay sets have been erected for each feeder inline along

with the bay. However, on the land claimed by the petitioners (Survey No.975/B1) 7 Nos., of main poles and supporting strut poles/stay poles have been erected. While a detailed sketch in this regard was filed as Annexure-2, the details of poles and the time of their erection were furnished in a separate Table. The details in this table show that all the 7 No., poles along with struts were erected prior to 1992. In respect of Item 7 it has been observed that 11 KV lines were converted into 33 KV lines without changing or erecting additional poles on 18-1-2010. As regards the two distribution feeders i.e., 33 KV Tadepalli CKT 1 and 2, it is observed that they were replaced on 21-1-2018. In the remarks column the following observations have been made:

“The then erected poles were got damaged and replaced with 12.5 Mtrs Spun pole with 2 Nos., 9/1 Mtrs struts under IPDS (Integrated Power Development Scheme)”.

It is further stated in the report that the Inspecting Officer has cross-verified the fact of replacement of old damaged poles under IPDS Scheme with the estimate prepared to execute the work and payment of work bill to the Contracting Agency, filed as Annexure-III.

On a perusal of the Estimate copy, it is clear that for CKT 1 and 2, one number each of 12.5 Mtrs spun pole was erected with 2 Nos., 9.1 Mtrs PSCC Poles (strut poles) over the land claimed by the petitioners. Further, in Annexure-II Diagram, the Inspecting Officer clearly noted what is written on

the two replaced poles of the two feeders passing over the lands claimed by the petitioners. It is written thereon as follows”

“For Tadepally-1 Feeder - Damaged iron pole replaced with 12.5 Mtrs with 2 Nos 9/1 Mtrs strut poles (21-1-2018 Lot No.25491, 21-1-2018 Lot No.---)

For Tadepally-2 Feeder - Damaged iron pole replaced with 12.5 Mtrs with 2 Nos 9/1 Mtrs strut poles (21-1-2018 Lot No.2555, 21-1-2018 Lot No.2479)”

The above conclusions drawn by the Inspecting Officer, based on the record and the features observed by him on the spot, such as, the writings on the Poles, clinchingly establish that all the Seven Feeders passing over the lands claimed by the petitioners were in existence at least from 1992, if not earlier, and only two poles located over the petitioners’ claimed lands were replaced with new poles and struts in the year 2018.

Thus, the plea of the petitioners that when they purchased the properties between 2011 and 2013 there were no electric poles or wires passing over their lands, appears to be an absolute falsehood. Further, apart from replacement of the existing two poles, even the 9.1 Mtrs long strut poles were erected on either side of the main Spun poles underneath the 33 KV Corridor, occupying only 6.25 Sft space each, which is lesser than the space occupied by the preexisting stay sets.

As noted above, though the petitioners had more than 4½ months time for filing objections, if any, no objections have been filed. Thereby, the petitioners have not disputed any of the observations made and conclusions drawn by the Inspecting Officer in his Inspection Report. When the report has

remained uncontroverted, it deserves to be accepted in toto. It is, thus, clear from the Inspecting Officer's report that respondent No.3 has not erected new poles and that what was done was only replacement of 2 Nos., of poles with new poles and two struts on either side of each pole.

Since no new electric lines were laid and only 2 Nos. of poles with struts were laid in the place of old ones, no right has accrued to the petitioners to claim any compensation. The right to claim compensation, if any, was available to the petitioners' predecessors in title under the old regime. It does not appear that they have either raised any objection for laying the lines or claimed any compensation. The petitioners, who entered the shoes of their vendors, cannot claim any compensation for the pre-existing lines. Indeed, the fundamental premise on which the petitioners claimed compensation, viz., the lines were laid after they purchased the lands, is found erroneous, as the lines were very much in existence for a long time; and that the petitioners have purchased the properties with their eyes wide open. Evidently, taking advantage of the replacement of two poles, the petitioners created an artificial cause of action to claim compensation. While *ex facie* 2007 Rules have no application to the pre-existing lines, even otherwise also as per G.O.Rt.No.83 dated 20-6-2017 compensation is payable only for transmission lines supported by tower base of 66 KV and above and not for sub-transmission and distribution lines below 66 KV.

CONCLUSION:

For all the aforesaid reasons, the Revision fails and the same is, accordingly, dismissed.

Sd/-
P.V.R.Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member

