



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
**4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500004**

**TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER**  
**TWO THOUSAND AND TWENTY ONE**

**:Present:**

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

Revision Petition No.1 of 2020  
 And  
 Revision Petition Nos. 1, 2 & 3 of 2021

**Revision Petition No.1 of 2020**

Between:

R. Ramamurty Naidu  
 GPA holder of Smt. Rekha Ramamurthy Naidu,  
 R/o. Flat No.501, Sri Srinivasa Royal Residency,  
 New Military Colony, Nellore-524 004, A.P. .. Petitioner

And

1. Collector & District Magistrate,  
 SPS Nellore District, Nellore (Post).
2. Chairman & Managing Director,  
 A.P. Transco, Gunadala, Vijayawada (Post),  
 Krishna District. .. Respondents

**Revision Petition No.1 of 2021**

Between :

G. Maheswara Rao, s/o. G. Krishna Rao,  
 9-125/3, Gandhinagar, Nuzveedu,  
 Krishna District, A.P. 521201 .. Petitioner

And

1. The Collector & District Magistrate,  
Krishna District, Machilipatnam Post, A.P.
2. Chairman & Managing Director,  
A.P. Transco, Gunadala, Vijayawada (Post),  
Krishna District, A.P.
3. Principal Secretary, Department of Energy,  
Government of Andhra Pradesh,  
Amaravati Post, A.P.

.. Respondents

**Revision Petition No.2 of 2021**

Between:

1. Pothumarthi Venkateswara Rao, s/o.Atchutharamayya,  
Thatikuntla Village, Vissanapeta Mandal,  
Revenue Division Nuzvid, Krishna District, A.P.
2. N. Ramesh s/o. N. Ramanadh Teerdham,  
Diguvalli village, Nuzvid Mandal, Revenue Mandal Nuzvid,  
Krishna District, A.P.
3. Bitraguntla Subbarao, s/o. Sessaiah,  
Ramanakkapeta village, Musunuru Mandal,  
Revenue Division, Nuzvid, Krishna District, A.P.
4. Namamula Ramananda Theerdham s/o. N. Sriram Murthy,  
Diguvalli Mandal, Nuzvid Mandal, Revenue Division Nuzvid,  
Krishna District, A.P.
5. Bondala Ramarao, s/o. Venkateswar Rao,  
2-7, Ramanakkapeta village, Musunuru Mandal,  
Krishna District, A.P. 521213
6. Smt. Bathina Kumari w/o. Chalapathi Rao,  
2-51, Ramanakkapeta village, Musunuru Mandal,  
Krishna District, A.P. 521213

7. Bonala Sreenu s/o. Nagaratnam,  
2-51, Bollavari Bazar, Ramanakkapeta village,  
Musunuru Mandal, Krishna District, A.P. 521213
  8. Nannamsetty Venkateswar Rao,  
D.No.S1-77, Ramanakkapeta village,  
Musunuru Mandal, Krishna District, A.P.521213
  9. Rajaboyina Arjuna s/o. Tirupataiah,  
Ramanakkapeta village, Musunuru Mandal,  
Krishna District, A.P. 521213.
  10. Nekkalapu Ramarao s/o. N. Venkateswara Rao,  
5-28, Tatakuntla, Vissannapeta Mandal,  
Krishna District, A.P.
  11. Smt. Nandamuri Chandrakanthamma  
w/o. Late Chalapathi Rao, 19-189, Kondaparva village,  
Vissannapeta Mandal, Krishna District, A.P.
  12. Nekkalapu Sambhasiva Rao, s/o. N. Subbarao,  
Thatikuntla village, Vissannapeta Mandal,  
Revenue Division Nuzvid, Krishna District, A.P.
  13. Smt. Pothumarthi Lakshmi Prasanna,  
w/o. P.Venkateswara Rao, Thatikuntla village,  
Vissannapeta Mandal, Revenue Division Nuzvid,  
Krishna District.
- .. Petitioners

And

1. The Collector & District Magistrate,  
Krishna District, Machilipatnam Post, A.P.
2. Chairman & Managing Director,  
A.P. Transco, Gunadala, Vijayawada (Post),  
Krishna District.
3. Principal Secretary, Department of Energy,  
Government of Andhra Pradesh,

Amaravathi Post, A.P.

.. Respondents

**Revision Petition No.3 of 2021**

Between:

1. Dakarapu Venkat Rao s/o. Brahmanna  
R/o. I.S. Raghavapuram, Dwaraka Tirumala  
Post & Mandal, West Godavari District, A.P. 534451
  2. D.G. Srinivas Rao s/o. D. Venkat Rao,  
R/o. I.S. Raghavapuram, Dwaraka Tirumala  
Post & mandal, West Godavari District, A.P. 534451.
- .. Petitioners

And

1. Collector & District Magistrate,  
Santhi Nagar, Eluru Collectorate, Eluru,  
West Godavari District, A.P. 534006.
  2. Chairman & Managing Director,  
A.P. Transco, Gunadala, Vijayawada (Post),  
Krishna District.
- .. Respondents

These Revision Petitions having come up for hearing on 28-07-2021 in the presence of Sri P. Chengal Reddy, Counsel for the petitioners and Sri P. Shiva Rao, Standing Counsel for the Utilities, and upon hearing both the parties, the Commission passed the following :

**COMMON ORDER:**

These Revision Petitions are filed under Section 13(2) of the A.P. Works of Licensees Rules 2007 against the respective orders of the District Collectors of Nellore, Krishna and West Godavari Districts awarding compensation to the land



owners/farmers in respect of erection of certain towers and laying of transmission lines by the A.P. Transco.

### **Revision Petition No.1 of 2020**

The petitioner in R.P.No.1 of 2020 is the owner of land of an extent of Ac.22.72 in Sy.No.9/11, Pendluru village, Naidupet Mandal, Nellore District. He filed W.P.No.35258 of 2012 on the file of the Hon'ble High Court questioning the action of the AP Transco in trespassing into his land and undertaking the works relating to the erection of towers and laying of transmission lines in respect of 400 KV Krishnapatnam without his knowledge. The Executive Engineer, 400 KV Krishnapatnam, APTransco, Nellore, requested the petitioner to withdraw the Writ Petition on condition that compensation would be paid as per the actual damage to the trees as per the rates fixed by the Government and the petitioner accordingly withdrew the said Writ Petition.

The Executive Engineer, 400 KV Krishnapatnam vide letter No.EE/400 KV/KPTM/NLR/F.No.31/D.No.665/12 and 663/12 dated 19-10-2012 informed the District Collector, Nellore that A.P. Transco was constructing 400 KV Quad Moose Double Circuit Power line from Krishnapatnam 400 KV station to Manubolu 400 kV substation passing through the agricultural fields, fish/prawn ponds, lands containing Teak wood trees and coconut trees of Muthukur, Venkatachalam and Manubolu Mandals and requested resolution of Right of Way (RoW) problems and to assess the crop compensation for standing crops damaged during the process of power line construction works. Vide letter No.POWERGRID/SR-1/NLR/CAO-2012, dated 29-03-2013, the Chief Manager, Power Grid Corporation while stating that they are

entrusted with the work of power evacuation system through 400 KV D/C Vijayawada-Nellore (Manubolu) and Nellore-Thiruvallam transmission lines through Manubolu, Gudur, Podalakur, Atmakur, Ananthasagaram, Marripadu, Vinjamur, Ojili, Naidupet and Pellakur mandals, requested the District Collector, Nellore to fix compensation to be paid to the farmers for resolving the RoW issue.

The Secretary General, Consortium of Indian Farmers Association, New Delhi and 5 others submitted representation dated 31-05-2013 to the District Collector, Nellore stating that the respondents are not paying just and eligible compensation to the farmers while laying transmission lines through agricultural lands and requested for issue of instructions to the Power Grid Corporation of India (sic : A.P. Transco) for payment of compensation to the farmers/land owners in accordance with the Judgment in **Kerala State Electricity Board Vs. Livisha 2007(6) SCC 792 = 2007(3) KLT 1 (SC)** wherein the Hon'ble Supreme Court justified the fixation of compensation for diminution of land value wherever transmission lines are drawn and the towers are erected.

The District Collector held a meeting with the concerned officers and taking into consideration the Judgment in **Kerala State Electricity Board Vs. Livisha (1-supra)** wherein the Hon'ble Supreme Court justified the fixation of compensation for diminution of land value wherever transmission lines are drawn and the towers are erected, has taken a decision to pay compensation for the diminution of the land value wherever towers were erected and transmission lines were drawn. Vide proceedings dated 24-08-2013, the District Collector fixed the market value of the land adjacent to Highways at Rs.50 lakhs per acre, in remote areas at

Rs.10,00,000/- per acre and in far remote areas at Rs.5,00,000/- per acre. He has assessed that one tower of 400 KV/765 KV transmission line occupies Ac.0-12 cents and accordingly fixed compensation of Rs.6,00,000/- per tower area near Highways; Rs.1,20,000/- in remote areas and Rs.60,000/- in far remote areas and arrived at the average market value at Rs.2,60,000/- per tower as compensation. While arriving at the compensation for crop loss, the District Collector, having considered the factors viz., the nature of crop, yield per acre, assessed value of yield, cost of cultivation and net profit per season, arrived at Rs.90,000/- as compensation for the average crop loss under each tower area. He has accordingly fixed the compensation payable to the farmers/land owners @ Rs.3,50,000/- per tower (Rs.2,60,000/- + Rs.90,000/-). Accordingly, the A.P. Transco has paid a total amount of Rs.7,00,000/- for the two towers i.e., 34A/1 and 34A/2 erected in the land of the petitioner and Rs.80,000/- towards damaged caused to the trees during stringing activity, as compensation. Dissatisfied with the compensation awarded by the District Collector, the revision petitioner filed O.P.No.11 of 2017 before this Commission for determination of full compensation for the losses and damages to the trees, land and property and for directing payment of the same with interest from the date of eligibility till payment and other appropriate reliefs. In its order dated 24-03-2018, the Commission, inter alia, found fault with the procedure adopted by the District Collector while fixing the compensation vide proceedings dated 24-08-2013 and remanded the matter for reconsideration in accordance with the A.P. Works of Licensees Rules 2007 (for short "the 2007 Rules").

After remand, before the Collector, the petitioner contended that due to erection of two towers and tower lines in his land, an extent of Ac.7-13 cents was affected; that the RoW is 48 meters wide and 549 meters in length; that there were 25 to 30 nos. of mango trees aged 17-18 years and the value of the said trees has to be fixed basing on orders issued by the Government of A.P. vide G.O.Ms.No.196, Revenue (Lands-I) Department, dt.8-7-2020, that market value has to be fixed based on the potentiality of the locality; and that the actual loss sustained by the farmers/land owners must be individually assessed and not on average basis of all the lands falling in the alignment as computed by the District Collector vide proceedings dated 24-08-2013. He further contended that his land is located at 1.2 KM from NH-16 Chennai-Calcutta Highway, 3 KM from Special Economic Zone and 6 KM from Naidupeta Municipality; that the land is suitable for housing, industrial and educational institutions and that due to fragmentation of the land due to erection of towers and tower lines, the holistic value of his entire land has been lost; that compensation must be fixed at the prevailing value as per the Right to Fair Compensation and Transparency in Land Acquisition (Rehabilitation and Resettlement) Act 2013 (for short "the Land Acquisition Act 2013") and that he is also entitled to solatium and interest. The petitioner further contended that his case has to be considered as a special case as there was standing garden in his land before execution of the work and the rest of the lands in which towers were erected were either vacant lands or paddy was grown and that therefore there was no loss of crop value in those lands. The petitioner further contended that the proceedings dated 24-08-2013 of the District Collector were not issued under the 2007 Rules, in

that, they do not contain any reference to Rules 3(2) or 3(4) of the said Rules; that the objections dated 18-09-2012, 23-10-2012 submitted to the AEE and the objections dated 4-2-2013 submitted to the District Collector were not considered; and that the proceedings of the District Collector do not contain the basis for arriving at the compensation fixed in common for all the ongoing and forthcoming projects.

The respondents contended that the work was executed with the consent of the land owner subject to payment of compensation as may be determined by the District Collector; that the petitioner's land was located 1 KM away from the National Highway crossing the Railway track and the cut-point was fixed as per the requirement of the Railway crossing and hence they had to traverse through the fields and could not go to the fringes; that during the erection of towers only 20 trees were uprooted in the place of two towers erected in the petitioner's land but compensation was paid to the petitioner for 40 trees; that though the other trees were only pruned and branches were removed, high rise towers i.e, DA+12 towers, were laid specifically to safeguard the trees though DA+0 and DA+3 were approved and that additional expenditure of Rs.14.92 lakhs was incurred by the Transco to avoid damage to the trees in future.

After hearing both the parties, in exercise of his power under Rule 13(1) of the 2007 Rules, the District Collector arrived at the compensation payable to the petitioner as under :

(a) Compensation payable to the land for tower base area (between four legs) as per Land Acquisition Act 2013 :

| S.No. | Sy.No. | Extent<br>Ac. | Basic<br>value as<br>on<br>10-8-2020<br>per acre | 2.5 times<br>(i.e.,<br>including<br>100%<br>solatium<br>and<br>interest) | Compensation<br>arrived at per<br>acre | Compensation<br>payable for<br>Acs.0-12 cents |
|-------|--------|---------------|--|--|--|---|
| 1     | 9-1B   | 0-12          | 6,80,000   | 17,00,000  | 17,00,000                              | 2,04,000                                      |
| 2     | 9-1B   | 0-12          | 6,80,000   | 17,00,000  | 17,00,000                              | 2,04,000                                      |
|       |        |               |  |  | Total                                  | 4,08,000                                      |

(b) Compensation payable towards diminution of land value (@10%) as per G.O.Rt.No.83, Energy, Infrastructure & Investment (PR.II.A2) Department, dated 20-06-2017:

| S.No. | Sy.No. | Extent covered in the<br>width of RoW corridor<br>due to laying of<br>transmission lines (in<br>Acs) | Basic value | Maximum of<br>10% of land<br>value (i.e., for<br>total Acs.7-13) |
|-------|--------|--|-------------|--|
| 1     | 9-1B   | 7-13   | 6,80,000    | 4,84,840   |

(c) As agreed in writing by the petitioner, Rs.80,000/- towards damages to 40 Mango trees was paid for partial branch cutting of big mango trees as per the decision of the Committee formed vide Memo No. CE / Const / 400KV / SE / PM - II / D2-A1F.KTPP-CHTR/D.No.660/13, dated 14-02-2013 of the Chief Engineer Construction/400 KV AP Transco, Hyderabad.

Purporting to consider as a special case, the District Collector arrived at the compensation payable to the petitioner as under :

|   |  |          |
|---|--|----------|
| 1 | Compensation to the land value i.e., (Acs.0-12 cents<br>(sic : Acs.0-24 cents)                             | 4,08,000 |
| 2 | Compensation payable towards diminution of land<br>value for Acs.7-13 cents (maximum 10% of land<br>value) | 4,84,840 |

|   |  |          |
|---|--|----------|
| 3 | Compensation towards damages to 40 mango trees as decided in the Committee and already accepted by the petitioner in writing | 80,000   |
|   | Total compensation   | 9,72,840 |
|   | Amount already paid to the owner   | 7,80,000 |
|   | Balance compensation to be paid by Transco   | 1,92,840 |

Aggrieved by the Collector's orders, the petitioner filed R.P.No.1 of 2020 before this Commission. The petitioner pleaded that G.O.Ms.No.83, dt.20-06-2017 wherein the compensation for RoW was fixed at 10% of the land value is illegal and contrary to Section 180 and Section 67(2)(a) to (e) of the Electricity Act 2003 (for short "the 2003 Act") and the directions issued by the Government of India in Ref.No.3/7/2015-Trans, dated 15-10-2015; and that under Rule 3(4) of the 2007 Rules, the District Collector shall fix the compensation but instead of using his judgment to arrive at the compensation, he has followed the guidelines issued by the Principal Secretary, Power, GoAP vide G.O.Ms.No.83, dated 20-06-2017. It was further pleaded that denial of compensation for RoW is contrary to the 2003 Act and the 2007 Rules; that the guidelines issued by the GoAP vide G.O.Ms.No.83, dated 20-06-2017 are not applicable to the Commission; that the Commission is an independent judicial entity vested with the powers to fix compensation for all the damages, loss to the property and inconvenience caused by the A.P. Transco as held by the Hon'ble APTEL in Appeal No.83 of 2010, dt.7-9-2011; that Section 67(4) conferred power upon the Commission to resolve disputes between the land owner



and the licensee which power is untrammelled and not impaired by the 2007 Rules framed under Section 67(2) of the 2003 Act and that the said Rules would govern the working of the licensees and not the Commission.

The petitioners further pleaded that the electronic equipment function under the transmission lines; that lines laid over the width of RoW cause damage to the land underneath them, that the lines cause electromagnetic effect; that the lines constantly cause humming sound and all these factors make the land prone to lightning and thunderbolts, that the land owner cannot build permanent structures in the width of RoW, that even farming activity of beyond 10 ft. including growing of garden trees is prohibited; that the trees besides RoW were pruned thereby causing loss of income and livelihood and that the licensee, while carrying out the works use tractors and lorries to carry wire, steel, cement, foundation material for construction of tower and drawing lines causing substantial damage to the structures, sheds, tube-wells, fencing, roads, drip equipment and also the standing crop; that the land owner is compelled to permanently keep the land underneath the transmission lines without scope for any development during the lifetime of the transmission lines of over 80 years period and that drawing of transmission lines over a specific survey number of the land damages the entire value of the land and will be permanently prohibited from any futuristic development. That the right to property is a human right and also protected by Article 300-A of the Constitution of India and therefore the same cannot be taken away without following proper procedure and payment of compensation. That the width of the RoW under the 400 KV is 46 meters + 5.5 meters i.e., minimum clearance between the conductor and the petitioner's land; that



the length of the RoW is 549 meters (Entry Point to Exit Point) and therefore an area of 28,273.5 meters, equivalent to Ac.6.98 cents, was damaged; that though the ownership of the land remains with the petitioners, the cumulative value of the land is lost and that therefore the petitioners are entitled for full compensation for the same under the provisions of the Land Acquisition Act 2013.

The petitioner further pleaded that the land in question is located within 4 KM from Menakuru SEZ established in Ac.4500; that the Ozile Mandal Head office is within 3 KM across the petitioner's land on the Chennai-Calcutta National Highway; that Naidupeta Municipality is within 5 KM; the Chennai Industrial Area is within 100 KM; that sugar and iron industries are located nearby and that therefore the petitioner's land has huge scope for development for industrial and residential establishments. The petitioner therefore pleaded that Rs.50,00,000/- shall be taken as the value of the land per acre in his case.

The petitioner further pleaded that the 27 mango and guava trees, which were 15 years old and providing regular income to the petitioner, were uprooted; that Rs.25,000/- shall be taken as the value of each such tree; that 218 mango and guava trees were pruned during the work the petitioner is entitled to compensation of Rs.4500/- per each tree pruned.

Respondent No.2-A.P. Transco filed counter supporting the compensation fixed by the District Collector.

**Revision Petition Nos.1 and 2 of 2021**

The petitioner in Revision Petition No.1 of 2021 is the owner of an extent of Ac.6-20 cents in Sy.No.454 of Thathikuntla village, Vissannpeta Mandal, Nuzuveedu, Krishna District. The petitioners in Revision Petition No.2 of 2021 are the owners of different extents of lands in Thathikuntla village, Vissannapeta Mandal, Nuzveedu, Krishna District.

In the course of laying of 132 KV DC line from 220/132/33 KV Nuzvid sub-station to the proposed 132/33 KV Narsapuram sub-station, administrative sanction was accorded by A.P. Transco vide T.O.O.No.(CE-Construction) Ms.No.61, dt.11-03-2016 for (i) erection of 132/33 KV Narsapuram sub-station (with Automation features) (ii) 132 KV DC line from 220/132/33 KV Nuzvid sub-station to the proposed 132/33 KV Narsapuram sub-station and (iii) two nos. of 132 KV Bays at 220/132/33 KV Nuzvid sub-station in Krishna District. The total length of 132 KV line is 25.312 KM with 92 locations and accordingly work was awarded on contract and the sub-station works at Narasapuram village and Nuzvid Town were completed and erection of 132 KV DC line is awaited. Instructions were issued to the Tahsildars of Vissannapet, Nuzvid and Musunuru to convene a meeting with the land owners/farmers and the A.P. Transco officials, in pursuance whereof the Tahsildar, Vissannapeta reported that preliminary meetings were conducted on 4-7-2017 and 4-8-2017 regarding payment of one time compensation for land and corridor compensation for RoW width and explained the line alignment, extent of foundation area location-wise in detail to all the land owners/farmers who attended the meetings. A total of 47 locations were identified in Vissannapeta Mandal limit and Basic Registration value of Rs.6.5 lakhs per acre for 18 locations and Rs.6 lakhs per

acre for 24 locations obtained from the Sub-Registrar, Vissannapeta, was proposed for the payment of compensation.

Vide G.O.Rt.No.83, dt.20-06-2017, Energy, Infrastructure & Investment (PR.II.A2) Department, instructions were issued for payment of compensation @ 100% of the land value as determined by the District Magistrate or any authority based on circle rate/Guidelines value/Stamp Act rates for the tower base area impacted severely due to installation of tower/pylon structure. The A.P. Transco too agreed to arrange crop/tree compensation payment as per the damages as and when it might occur during execution of line as per the usual procedure apart from the proposed one time compensation. G.O.Rt.No.83, dt.20-06-2017 also provided for payment of compensation towards diminution of land value in the width of RoW corridor, subject to maximum of 10% of the land value by calculating with the meters prescribed by the Government with reference to the type of transmission voltage.

On the recommendation of the Revenue Divisional Officer, in Rc.B.2350/2017, dt.18-12-2017, Nuzvid, the District Collector vide proceedings dt.23-04-2018 accorded sanction for payment of compensation @ Rs.6,00,000/- per acre and compensation for width of RoW corridor @ 10% of the land value to the farmers affected in the course of erection of 132/33 KV sub-station at Narsapuram village of Vissannapeta Mandal with 132 KV DC Radial Line from 220/132/33 KV sub-station at Nuzvid to New 132/33 KV sub-station at Narasapuram village, Vissannapeta Mandal. However, as the farmers had demanded higher compensation, a meeting was held with the farmers and upon negotiating with them, they have agreed to accept the compensation of land value covered by tower area @ 2.5 times of the

basic value. Accordingly, the Principal Secretary to Government, Energy, Infrastructure & Investment Department issued orders dt.5-3-2018, vide Memo No.ENE01/APPT/15/PR.II(A)/2018, for payment of compensation of land value at the rate of 2.5 times (250%) of the basic value to the affected farmers in relaxation of the rules issued in G.O.Rt.No.83, Energy, Infrastructure & Investment (PR.II.A2) Department, dt.20-06-2017, following which the District Collector issued proceedings dated 22-04-2019 granting compensation for the land @ 250% of the basic value.

Challenging the proceedings dated 22-04-2019 of the District Collector, the petitioners filed the present Revision Petitions for not enhancing the compensation for the width of RoW corridor. The petitioners pleaded that the District Collector obtained sanction from respondent No.3-Principal Secretary which is contrary to the 2007 Rules; that the proceedings dated 22-04-2019 of the District Collector are not in accordance with the farmers demands for increasing compensation for loss of total land value for towers and lines and the 2003 Act and Rule 3(4) of the 2007 Rules. It was further pleaded that the damage to the land under the towers and lines is substantial deprivation of property right as held by the Hon'ble Supreme Court in **Dwaraka Das Vs. Sholapur Spinning Mills (1954 SCR 674)**; that the damage to the land under the electrical lines is considered as 'diminution of land value' by the Hon'ble Supreme Court in Civil Appeal No.289 of 2006, dt.18-05-2007 in **Kerala State Electricity Board Vs. Livisha (1-supra)** and therefore the petitioners are entitled to compensation for RoW @ 250% of the land value; and that the procedure for assessing compensation shall be under the Land Acquisition Act 2013 which is included as Item-12 of IV Schedule of the Electricity Act 2003. That the

compensation for land under tower base has to be decided and paid based on the measurements taken from the outer edges of the excavated pits but not by the measurements taken over stubs. It was further pleaded that the transmission companies are paying compensation in instalments – the first instalment after digging the pits, second instalment after installation of towers and drawing lines and the final instalment after charging; that the transmission companies are taking undertaking affidavits from the land owners not to file revisions which is illegal as the land owners are entitled to file revision before the Commission under Rule 3(5) and Rule 13(2) of the 2007 Rules. The petitioners further pleaded that they are entitled for compensation for bore-wells and temporary structures in the width of RoW corridor.

Respondent No.2-AP Transco filed counter affidavits with similar averments as in Revision Petition Nos.1 and 2 and has asserted the power conferred on it vide G.O.Ms.No.115, dated 7-10-2003 by the Government of A.P. under Section 164 of the 2003 Act in larger public interest for carrying out the works in question. It was further pleaded that the under sub-rule (6) of Rule 3 of the 2007 Rules, nothing contained in the said rule shall affect the powers conferred upon any licensee under Section 164 of the 2003 Act; that the Supreme Court in **PGCL Vs. Century Textiles Ltd. (Civil Appeal No.10951 of 2016, Dt.14-12-2016)** held that in view of the powers under Section 164 of the 2003 Act r/w. the provisions of the Telegraph Act 1885, Rule 3 of the 2007 Rules do not apply to the cases on hand.

With regard to the compensation payable for trees/crops existing in the tower area, it was pleaded that the value of the tree/crop will be paid in addition to the land

value to the extent of tree/crop damaged; that at present the compensation for trees affected is being paid at 4 times the rate as per G.O.Ms.No.357, Revenue (LA) Department, dt.22-03-2006 which is being implemented in respect of other lines under construction in Krishna District; that the crop compensation is being paid as per the yield and the rates fixed and communicated by the Mandal Agricultural Officer and that in respect of compensation for orchards the Government issued guidelines vide G.O.Ms.No.196, dated 8-7-2020. With regard to compensation for 'diminution of land value' due to laying of transmission line in the width of RoW, it was pleaded that the width of RoW corridor for 132 kV transmission line is 27.0 Mtrs. (13.5 Mtrs. on either side from the center of the line) and shall not be more than that prescribed and shall not be less than the width directly below the conductors for 132 KV level voltage; that guidelines for payment of compensation towards damages in regard to RoW for laying of transmission lines was issued by the Government of India, No.3/7/2015-Trans, Dt.15-10-2015, which were adopted by the Government of A.P. and the same was fixed @ 10% of the land value vide G.O.Ms.No.83, dt.20-06-2017; that the same was adopted by the A.P. Transco vide T.O.O. (Addl.Secy-Per) Ms.No.511, dt.7-8-2017 and that the compensation in this regard was granted by the District Magistrate vide proceedings dt.23-04-2018.

The counter affidavit averred certain details of the extensions made in the height of transmission lines due to the mango trees to maintain ground clearances at many locations. With regard to the bore wells in the vicinity damaged during the execution of works, it was pleaded that compensation will be paid as proposed by the concerned Department apart from the one-time compensation. It was further



pleaded that the provisions of the Land Acquisition Act 2013 are not applicable to the 2007 Rules.

### **Revision Petition No.3 of 2021**

The petitioners are the owners of Ac.9-00 cents and Ac.3-50 cents, totalling to Ac.12-50 cents of I.S. Raghavapuram village, Dwaraka Tirumala Mandal, West Godavari District. Respondent No.2-A.P. Transco has taken up the works of evacuation of power from 2x520 MW from Hinduja National Power Corporation Ltd., Visakhapatnam to 400/220 KV sub-station at K. Kota to cater to the electricity demand of the State on fast track basis by erecting 400 KV Twine Mosse Double Circuit Line in three reaches, traversing assorted fruit bearing gardens and commercially planted gardens in certain mandals of West Godavari District and the line is passing over mango, cashew, lemon, eucalyptus, palmolein and casuarinas trees. On the demand of the local farmers, the Chairman and Managing Director of the A.P. Transco requested the District Collector to fix the rates for paying compensation for the trees as they were to be removed before taking up of the works. The matter was placed before the Committee constituted as per G.O.Ms.No.357, Revenue (LA) Department, dated 23-03-2006 under the Chairmanship of the then District Collector, W.G. District, Eluru. As per the decision taken by the Committee, the District Collector issued proceedings Roc.No.4613/2013/GI, dt.13-05-2015 fixing the compensation as under :

(a) Tree/crop compensation @ four times the rate fixed as per G.O.Ms.No.357, Revenue (LA) Department, dt.23-03-2006 and Rs.4,400/- per MT for Eucalyptus trees.

(b) Land value in the tower area @ Rs.1,28,000/- lumpsum.

- (c) Value of trees/crop in the tower in addition to the land value.

Aggrieved by the fixation of compensation by the District Collector as above, the petitioners appealed to the Commission in O.P.No.13 of 2018. The Commission, having found fault with the procedure adopted by the District Collector while fixing the compensation, remanded the matter for reconsideration.

After remand, before the District Collector, the petitioners contended that the Land Acquisition Act 2013 has to be followed for fixing the compensation; that the Transco officials had not brought to the notice of the District Collector the relevant Rules; that the compensation for trees has to be fixed for the width of RoW for total Acs.4-78 cents (Ac.1.18 + 3.50 cents); and that during construction of tower by the Transco, the petitioners have suffered damage to their crops/trees and sustained loss of value of their property. Respondent No.2-A.P. Transco contended that the Gazette Notification for the works in question was issued on 4-3-2013; that objections if any were to be filed within two months from the date of notification, but the petitioners had not utilized the opportunity; that only one tower was erected covering 281 sq. yards in the petitioners' land; and that compensation of Rs.1,49,312/- including crop value was received by the petitioners without any protest.

The District Collector accepted the contention of the petitioners that compensation to the subject land has to be fixed under the provisions of the Land Acquisition Act 2013 basing on the date of entering by the requisitioning department



into the agricultural field of the petitioners for starting foundation work i.e., 22-03-2016. He has observed that as no notification was issued for acquisition of land, the basic value of the land for the year 2015-16 shall be taken into consideration for arriving at the land value; that according to the report of the SRO, Bhimadole the basic value of the land for the year 2015-16 is Rs.7,00,000/- per acre; that as per Section 26 to 30 of the Land Acquisition Act 2013, the average sale price of the preceding three years from the date of issue of notification or the value as per the Indian Stamp Act, whichever is higher shall be considered for fixing compensation for the land; and that compensation has to be paid for damage to the crops, and trees and structures with 100% solatium. Accordingly, after taking into consideration 50% highest sale values among the total sale transactions that took place for similar type of land in the vicinity during the preceding three years from 22-03-2016, the District Collector arrived at Rs.6,71,492/- as the land value per acre, but however fixed Rs.7,00,000/- per acre under Section 26 of the Land Acquisition Act 2013 as the same is higher than the average sale price of the lands in the vicinity. Accordingly the District Collector fixed the compensation payable per acre of land as under :

|   |               |
|---|---------------|
| (a) Market value per acre @ Rs.7,00,000/- x 1.25 (MF @ Rural) | - Rs.8,75,000 |
| (b) Solatium @ 100%   | - Rs.8,75,000 |
|   | -----         |
|   | Rs.17,50,000  |
|   | -----         |

Land covered under the tower - Ac. 0.05 ½ cents (281 sq. Yards)

Value of the said extent (Ac.0.05 ½ x 17,50,000) – Rs.96,250/-

That the petitioners are entitled to Rs.96,250/- including all statutory benefits for Ac.0-05 ½ cents (281 sq. Yards), but the petitioner No.1 was paid Rs.1,28,000/- by the then District Collector vide proceedings No.4617/2013/G1, dt.13-05-2015 which is higher than the value arrived at as per the Land Acquisition Act 2013 for the land covered under the tower area.

The contention of the petitioners that they are entitled for payment of compensation for damage to crops and trees as per G.O.Ms.No.196, Revenue (Lands-I) Department, dt.8-7-2020 was not accepted by the District Collector as the said G.O. was issued much later in point of time and accordingly it was held that compensation in this regard shall be fixed in terms of G.O.Ms.No.357, Revenue (L) Department, dt.22-03-2006. After obtaining the value of the crops/trees from the Agriculture Officer & Horticulture Officer, Dwaraka Tirumala, covered under the tower/corridor area and after obtaining confirmation thereof by the concerned Officers, the compensation for damage to the crop/trees was assessed at Rs.1,01,851/- apart from 100% solatium thereon, making a total of Rs.2,03,702/-.

The District Collector rejected the contention of the petitioners that they are entitled to compensation for the width of RoW on the ground that guidelines issued in Letter No.3/7/2015-Trans, dt.15-10-2015 for payment of compensation to the corridor area @ 15% of land value by the Government of India were not accepted by the Government of A.P. and that G.O.Ms.No.83, Energy, Infrastructure & Investment (Pr.II.A2) Department, dt.20-06-2017 issued by the Government of A.P. for payment

of compensation for RoW corridor subject to a maximum of 10% of land value is not applicable to the petitioners' case as the said G.O. has no retrospective operation.

As the compensation payable to the petitioners under the proceedings dt.13-05-2015 of the then District Collector (Rs.3,75,925/-) was found to be higher than that computed under the provisions of the Land Acquisition Act 2013 (Rs.2,99,952/-), the District Collector confirmed the earlier proceedings dated 13-05-2015 and directed payment of compensation of Rs.2,26,213/- after deducting the amount of Rs.1,49,312/- already received by the petitioners. Aggrieved by the same, the petitioners filed the present Revision Petition No.3 of 2021 under Rule 3(5) and Rule 13(2) of the Works of Licensees Rules 2007.

In the Revision Petition, the petitioners pleaded that the proceedings dated 17-10-2020 of the District Collector are illegal, contrary to Electricity Act 2003 and the 2007 Rules Article 300-A of the Constitution of India and also the principles of natural justice. That denial of compensation for the width of RoW to the petitioners is illegal, that G.O.Ms.No.83, dt.20-06-2017 whereunder the Government of A.P. fixed 10% of the land value for awarding compensation for the width of RoW is against the provisions of Section 67(2)(a) to (e) and Section 180 of the 2003 Act. That under Rule 3(4) of the 2007 Rules, the Collector shall fix the compensation amount or annual rent or both which in his opinion is reasonable, but however the District Collector instead of using his judgment to arrive at the compensation payable, followed the guidelines issued by the Principal Secretary, Energy, Government of Andhra Pradesh in G.O.Ms.No.83, dt.20-06-2017. That the Commission is an independent judicial entity vested with the powers to fix compensation for the

damages, losses and inconvenience caused by licensees as held by the Hon'ble APTEL in Appeal No.83 of 2010, dt.7-9-2011; that the said guidelines issued by the GoAP are not applicable to the Commission while determining the compensation; that Section 67(4) conferred powers on the Commission to resolve the disputes between land owners and the licensees, which power is untrammelled and not impaired by the 2007 Rules framed under Section 67(2) of the 2003 Act and that the said Rules govern the working of the licensee and not the Commission. The petitioners further pleaded that the electronic equipment function under the transmission lines; that lines laid over the width of RoW cause damage to the land underneath them, that the lines cause electromagnetic effect; that they constantly cause humming sound and all these factors make the land prone to lightening and thunderbolts, that the land owner cannot build permanent structures in the width of RoW, that even farming activity of beyond 10 ft. including growing of garden trees is prohibited; that the trees besides RoW were pruned thereby causing loss of income and livelihood; that the licensee, while carrying out the works use tractors and lorries to carry wire, steel, cement, foundation material for construction of tower and drawing lines causing substantial damage to the structures, sheds, tube-wells, fencing, roads, drip equipment and also the standing crop; that the land owner is compelled to permanently keep the land underneath the transmission lines without scope for any development during the lifetime of the transmission lines of over 80 years period; and that drawing of transmission lines over a specific survey number of the land damages the entire value of the land and will be permanently prohibited from any futuristic development. That the right to property is a human right and also

protected by Article 300-A of the Constitution of India and therefore the same cannot be taken away without following proper procedure and payment of compensation. That the RoW width under 400 KV lines of the petitioners is 46 meters, that the minimum clearance between the conductor and trees is 5.5 meters, totalling 51.5 meters, that the lines were drawn over the petitioners' land through a length of 239 meters and therefore an area of 12,308 sq. Meters, equivalent to Ac.3-04 cents (Entry Point to Exit Point) was damaged; that though the ownership of the land remains with the petitioners, the cumulative value of the land is lost and that therefore the petitioners are entitled for full compensation for the same.

The petitioners further pleaded that the sale deed between Potana Nagu s/o. Potana Venkat Rao and T.L.K.M. Lakshmi, pertaining to sy.No.229/1 vide Registered Document No.360/2014, dt.24-01-2014 on the file of the Joint Sub-Registrar, Bheemadolu proves that the value of the land adjoining the petitioners' land during 2014 was Rs.17 lakhs per acre and therefore computing the compensation amount @ Rs.7 lakhs per acre is not proper. It was further pleaded that the trees damaged were over 15 years old and were providing regular income to the petitioners and that therefore fixing compensation therefor basing on the G.O. issued in 2006 is illegal.

Respondent No.2-A.P. Transco filed counter-affidavit supporting the compensation fixed by the District Collector.

Having regard to the respective pleadings of the parties and the submissions of the learned Counsel appearing for them, the following Points arise for consideration :

1. Whether the petitioners are entitled to higher compensation for the lands occupied by the towers and also for the lands falling under the RoW ?
2. If so, to what extent ?

We shall consider the above framed Points with reference to each of the Revision Petitions.

**Revision Petition No.1 of 2020:**

The petitioner's lands are situated in Sy.No.9-1B of Pendluru village of Naidupet Mandal. The petitioner has grown fruit bearing trees such as mango, sapota, coconut apart from raising teakwood and red sanders. Respondent No.2 has erected two numbers of 400 kV towers bearing Nos.34A/1 and 34A/2 over a part of the said land. As respondent No.1 is the competent authority to fix compensation, he has purportedly determined compensation vide proceedings dated 24-08-2013 applicable to all the farmers whose lands were affected by the laying of transmission line in question. He has assessed Rs.50 lakhs per acre as the market value of the lands situated near Highway; Rs.10 lakhs per acre for the lands situated in remote areas and Rs.5 lakhs per acre for the lands situated in far remote areas. He has also assessed the area occupied by each tower as Ac.0-12 cents and accordingly directed the market value to be paid. Respondent No.1 has also made a general assessment of the crop loss for paddy in the three Mandals of Muthukur, Venkatachalam and Manubolu through which the transmission line in question was laid. Following the said determination, respondent No.2 has paid a sum of Rs.7

lakhs for the two towers and a sum of Rs.80,000/- towards damage caused to the trees during the stringing activity.

Not satisfied with the determination of compensation, the petitioner filed O.P.No.11 of 2017 before this Commission. The Commission has set aside the order of respondent No.1 and remitted the matter back to him for determination of full and reasonable compensation to which the petitioner is entitled by reason of Works of Licensees Rules 2007. Following the said order, the petitioner, through his Counsel filed a petition on 12-06-2018 seeking higher compensation. After considering the contentions and pleadings of the petitioner and the submissions of his counsel, respondent No.1 has determined the compensation at Rs.17 lakhs per acre. While doing so, respondent No.1 has taken the basic value of the land as on 10-08-2000 at Rs.6,80,000/- per acre and by applying the provisions of the Land Acquisition Act 2013, he has allowed 2.5 times of the land value including 100% solatium and interest. Accordingly, he has determined a compensation of Rs.2,04,000/- for Ac.0-12 cents of land occupied by each tower. As regards compensation for diminution of the land value, following G.O.Rt.No.83, Energy, Infrastructure and Investment (PR.II-A2) Department, dated 20-06-2017, he has awarded 10% of the basic value of Rs.6,80,000/- per acre. Respondent No.1 has not interfered with the sum of Rs.80,000/- fixed towards compensation for damage to the 40 mango trees through partial branch cutting as determined by the Committee constituted under Memo dated 14-02-2013. After considering the sum of Rs.7,80,000/- already paid, respondent No.1 has directed respondent No.2 to pay the balance amount.



At the hearing, Sri P. Chengal Reddy, learned Counsel for the petitioner, submitted that even as per the earlier order dated 24-08-2013 of respondent No.1, the value of the land situated near Highways was Rs.50 lakhs per acre and those situated in remote areas was Rs.10 lakhs per acre. According to the learned Counsel, the petitioner's land should be treated as situated near the Highways as it is located within 5 KM from Naidupet municipal limits, 3 KM away from Ozile Mandal Head office and that sugar and iron industries are located nearby. The learned Counsel further submitted that an extent of Ac.6-96 cents was damaged under RoW and therefore the petitioner is entitled to full compensation calculated @ Rs.50 lakhs per acre and that after adding 100% solatium, the total RoW compensation comes to Rs.6,96,00,000. As regards the tower compensation, he has submitted that the petitioner is entitled to Rs.54 lakhs by calculating the market value @ Rs.50 lakhs per acre. The learned Counsel also submitted that restricting the RoW compensation to 10% of the land value is arbitrary as the State Government has no power to restrict the compensation as it did vide G.O.Rt.No.83, dated 20-06-2017.

Opposing the above submissions, Sri P. Shiva Rao, learned Standing Counsel submitted that except relying upon the earlier order of respondent No.1 regarding the value of lands, the petitioner has not produced any independent evidence showing the actual market value; that after remand, respondent No.1 has taken a pragmatic view and determined the market value based on the basic value register, and that too, the value prevailing as on 10-08-2020 instead of as on the date on which the land was utilized i.e., the year 2013. He has further submitted that G.O.Rt.No.83, dt.20-06-2017 containing the guidelines was based on the recommendation made by



the Committee constituted by the Power Ministers of the country and that therefore no interference is called for.

We have carefully considered the respective submissions of the learned Counsel for the parties.

As regards the position of law, under Section 67 of the 2003 Act, the appropriate Government is empowered 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 by any one employed by him while carrying out the works over private lands. Under sub-section (4), where any difference or dispute arises in the determination of compensation, the matter shall be determined by the appropriate Commission. In pursuance of the said rule making power, the State Government of Andhra Pradesh has framed the A.P. Works of Licensees Rules 2007. These Rules are in 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 this 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.

As regards the submission of Sri P. Chengal Reddy that the Government is not empowered to interfere with the powers of the District Magistrate in the determination of compensation, Section 67(2)(e) of the 2003 Act clearly empowered the State Government to make Rules in the matter of determination and payment of compensation or rent. If the State Government chooses to exercise this power by making appropriate Rules after following the procedure laying down or specifying the guidelines for determination of compensation in general, the same would be perfectly in consonance with the statutory scheme. The 2003 Act has laid down that if any such Rules are framed, they shall be laid before the State Legislature. Neither party has pleaded before this Commission that such Rules have been framed determining the criteria for fixation of compensation.

G.O.Rt.No.83, dated 20-06-2017 has only laid down the guidelines for payment of compensation towards damages. Unless Rules are framed and laid before the State Legislature, G.O.Rt.No.83, dated 20-06-2017 cannot be treated as containing the Rules. As rightly mentioned in the said G.O. itself, they could only be guidelines which may, at best, offer guidance to the District Magistrate while determining the compensation. Unless the Rules are framed by the State Government specifying the determination of compensation, the District Magistrate has freedom to determine the compensation by following fair and acceptable methods such as taking fair market value and/or in the absence of any criteria, the District Magistrate may even follow the procedure being followed by the authorities concerned under the Land Acquisition Act 2013.

With the above position of law in mind, the Commission shall now examine whether respondent No.1 has followed the fair procedure and made proper determination of compensation.

Respondent No.1 has taken the basic value of the land as on 10-08-2020. In fact, the market value of the property under the Land Acquisition Act shall be determined as on the date of notification. However, if advance possession is taken, the land owner is entitled to appropriate interest from the date of taking possession. As against this settled position, respondent No.1 has taken 10-08-2020 i.e., few days before passing of the order by him as the date as on which the value was determined. This is highly advantageous to the petitioner.

As regards reliance on the earlier order of respondent No.1, the petitioner cannot rely upon the earlier order as it was set at naught by this Commission while remanding the case. In the same proceedings, respondent No.1 has not treated the petitioner's land as being located adjacent to the National Highway. He cannot be permitted to support one part of the respondent No.1's order and oppose the other parts of the same. In any event, when once the case is remanded, respondent No.1 was permitted to examine the matter de novo as he did in the instant case.

Coming to reliance on the basic value register, it is no doubt true that the same shall not constitute the sole criterion for determination of fair market value. If, in a given case, the land owner is able to produce acceptable evidence such as sale transactions for the lands situated in the neighbourhood having similar potentialities for the period proximate to the time of acquisition/taking over of the land, the District

Magistrate shall accept such evidence in preference to the basic value register. Similarly, the land owner can also adduce evidence such as future potentialities of the land for fixing fair compensation. As held in **Kerala State Electricity Board Vs. Livisha (1-supra)**, the District Magistrate shall also consider *“the situs of the land, distance between the high voltage electric line laid thereover, extent of the land 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 factors....The value of the land would also be a relevant factor....”*. In the instant case except seeking to rely upon the earlier order of the District Magistrate and the pleading that the land should be treated as being located adjacent to the National Highway, no evidence has been produced by the petitioner to substantiate his plea that the value of his land is more than what is fixed in the basic value register. In the absence of such evidence, respondent No.1 cannot be said to be unjustified in relying upon the value in the basic value register. Therefore, this Commission sees no reason to interfere with the compensation regarding the land occupied by the two towers.

With respect to G.O.Rt.No.83, dated 20-06-2017, no doubt, as held hereinabove, the said G.O. merely contains guidelines and the same cannot be treated as laying down any Rules. Be that as it may, as could be seen therefrom, the guidelines were based on the recommendations of the Committee constituted during the Power Ministers' conference held on 9-10-2015. As evident from the G.O., it has not curtailed the District Magistrate's power of determination of compensation of the land value. It has in fact envisaged payment of 100% of the land value as determined by the District Magistrate in respect of tower base area (between four

legs). As observed earlier, how the District Magistrate fixes compensation depends upon the evidence produced by the land owner on the prevailing market value. Once the fair compensation is fixed, the G.O. stipulates that the 100% of such compensation shall be paid. The Commission feels that this is an absolutely fair approach.

As regards the compensation for determination of land under RoW corridor, G.O.Rt.No.83, dated 20-06-2017 suggested a maximum of 10% of the land value. As observed above, this is only a guideline which does not bind the District Magistrate at all times and in all situations. If, in a given case the land owner is able to prove that the diminution of land value is very substantial and that he deserves higher compensation, the District Magistrate is bound to award such higher compensation, provided he is satisfied that the unimpeachable evidence adduced by the land owner proves such substantial damage. In the instant case, Sri P. Chengal Reddy has fairly not advanced any submission that his client is entitled to compensation in excess of 10% of the land value. His submission, however, is that while determining the RoW compensation, respondent No.1 has taken only 100% of the land value instead of 250% of the land value for the land covered by the tower locations. We find justification in this submission of the learned Counsel. When the land covered by the towers is valued at Rs.17 lakhs per acre, there is no rationale in restricting the RoW value to only Rs.6,80,000/- per acre which is one time of the market value. There cannot be two sets of land value, one for tower area and the other for RoW corridor. When the land value of RoW corridor diminishes, it is the

market value as determined for the land under the towers which shall be equally applied even to such land.

In the light of the above discussion, this Commission holds that no interference is called for in respect of the compensation determined for the tower locations. However, respondent No.1 is directed to recompute the compensation for 10% of the land value covered under the RoW corridor which is an extent of Ac.7-13 cents by taking the land value as Rs.17 lakhs per acre and not as Rs.6,80,000/-. A fresh order in this regard shall be passed within one month from the date of receipt of this order. Within one month thereafter, respondent No.2 shall pay the balance compensation to the petitioner.

**Revision Petition Nos.1 & 2 of 2021**

In these cases also, while awarding 250% of the market value for the tower locations, respondent No.1 has not extended such benefit in respect of the land covered by RoW as in R.P.No.1 of 2020. As regards the land value, the same reasons which are discussed in R.P.No.1 of 2020 shall apply. Therefore, the order of respondent No.1 is not liable to be interfered with in respect of the compensation paid for the land covered by the tower locations. However, respondent No.1 is directed to recompute the land value of RoW corridor and respondent No.2 shall pay the balance compensation as directed in R.P.No.1 of 2020.

**Revision Petition No.3 of 2021**

In this Revision Petition, the only issue raised by the petitioners and argued by the learned Counsel representing them is that compensation has not been awarded in respect of RoW corridor. A perusal of the impugned order reveals that the premises on which the RoW compensation was denied were that (i) no provisions are made in the Land Acquisition Act 2013 as well as by the State Government in the year 2015-16 for payment of compensation; and (ii) that G.O.Rt.No.83, dt.20-06-2017 providing for payment of compensation for corridor area was issued on 20-06-2017 i.e., much prior to the lying of the transmission line in question. In our opinion, both the above reasons suffer from patent error. The Land Acquisition Act 2013 is a statutory enactment which does not deal with any particular purpose of acquisition of land. Though the procedure prescribed under the said Act is not being followed while transmission lines are laid over private lands, in view of the constitutional right of the owner of the property conferred by Article 300-A of the Constitution of India, such owner is entitled to the same compensation on the analogy of the Land Acquisition Act 2013. As discussed supra, unfettered discretion has been conferred on the District Magistrate to fix appropriate compensation by the existing Rules. In our opinion, there cannot be a better criterion than what is provided under the Land Acquisition Act 2013 for award of just and reasonable compensation. The philosophy under the said Act is to pay just and reasonable compensation to all the owners who are deprived of the land and/or its user. In recognition of the land owners' right to be compensated even for corridor area for diminution of its value, the Committee constituted by the Power Ministers of the



country made recommendations considering which the State Government issued G.O.Rt.No.83, dt.20-06-2017. In the Commission's view, G.O.Rt.No.83, dt.20-06-2017 only recognised a pre-existing right in every land owner to receive just and proper compensation. Therefore, whenever compensation is determined post G.O.Rt.No.83, dt.20-06-2017, every land owner whose claim was not finally settled by the date of coming into force of the said G.O., is entitled to the benefit under the said G.O. irrespective of whether the property was taken over prior to or after the issue of the same. Though the compensation was initially determined by order dated 13-05-2015 of respondent No.1, the same was set-aside by this Commission and the matter was remanded for fresh consideration by respondent No.1. Therefore, when a do novo determination is being made, respondent No.1 is bound to consider the guidelines contained in G.O.Rt.No.83, dt.20-06-2017.

There is another angle from which the issue could be perceived. In its Judgment in **Kerala State Electricity Board Vs. Livisha (1-supra)**, rendered as far back as the year 2007, the Hon'ble Supreme Court held that one of the relevant factors for determination of compensation is whether the owner of the land in a given situation may lose his substantial right to use the property for the purpose for which the same was meant to be used. This clearly shows that the concept of diminution in value on account of laying the transmission line was judicially well recognised much before the land was utilised in the instant case and G.O.Rt.No.83, dt.20-06-2017 was issued.

For the foregoing reasons, the order of respondent No.1 to the extent it has denied compensation to the corridor area is set-aside. Respondent No.1 is directed



to pass a fresh order determining the compensation for the corridor area within one month from the date of receipt of this order. Respondent No.2 shall pay such compensation within one month thereafter.

In the result, all the Revision Petitions are partly allowed to the extent indicated above.

Sd/-  
**Thakur Rama Singh**  
Member

Sd/-  
**Justice C.V. Nagarjuna Reddy**  
Chairman

Sd/-  
**P. Rajagopal Reddy**  
Member

