



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO(S).10882-10888 OF 2025
(Arising out of S.L.P.(C) No(s).14936-14942 of 2023)**

**KALPATARU POWER
TRANSMISSION LTD.
(NOW KNOWN AS KALPATARU
PROJECTS INTERNATIONAL
LTD.)**

... Appellant (s)

VERSUS

VINOD AND ORS. ETC.

... Respondent(s)

WITH

**CIVIL APPEAL NO(S).10889-10890 OF 2025
(Arising out of S.L.P.(C) No(s).14926-14927 of 2023)**

JHAJJAR K.T. TRANSCO PVT. LTD.

... Appellant (s)

VERSUS

RATI RAM AND ORS.

... Respondent(s)

WITH

**CIVIL APPEAL NO(S).10891-10892 OF 2025
(Arising out of S.L.P.(C) No(s).18246-18247 of 2025)**

VINOD AND ORS. ETC.

... Appellant (s)

VERSUS

**KALPATARU POWER
TRANSMISSION LTD. AND ORS. ETC.**

... Respondent(s)

J U D G M E N T

Rajesh Bindal, J.

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1. Leave granted.

FACTUAL BACKGROUND

2. The present judgment shall dispose of a batch of appeals arising out of a common judgment dated 24.02.2023 passed by the High Court¹ whereby a bunch of nine matters² were decided. The landowners before this Court are seeking further enhancement of compensation on account of damages suffered by erection of transmission lines and towers, whereas the Contractor is before this Court, challenging the amount of compensation awarded.

3. Briefly, basic facts of the case as are evident from the record are that Haryana Vidyut Prasaran Nigam Limited (hereinafter, "HVPNL"), a public company owned by the State Government initiated a power transmission project, titled "400 KV Jhajjar Power Transmission System-PPP-1," by issuing a Request for Quotation (RFQ) on 13.01.2009. Jhajjar KT Transco Private Limited (hereinafter, "JKTPL") was selected as the lowest bidder for the transmission project and was awarded the project under an Agreement dated 28.05.2010. Subsequently, JKTPL

¹ High Court of Punjab and Haryana at Chandigarh.

² CWP No. 21878 of 2017; CWP No. 26406 of 2017; CR-3502-2017; CR-3503-2017; CR-1280-2020; CR-2873-2021; CWP No. 9495 of 2017; CR-3830-2017; CWP No. 28570 of 2017.

entered into a sub-contract for erection, commissioning & other services with Kalpataru Power Transmission Ltd. on 29.10.2010, the present appellant in some of the appeals.

3.1 As is evident from the aforesaid contract executed between the JKTPL and Kalpataru Power Transmission Ltd., total length of transmission line is 100 km. The details thereof are as under:

- Jharli (Jhajjar) - Kabulpur (Rohtak) 400 KV D/C line (Length: 35 km).
- Kabulpur (Rohtak) - Dipalpur (Sonapat) 400 KV D/C line (Length: 64 km).
- Loop-in-Loop-out (LILO) of one circuit of Abdallapur - Bawana 400 KV D/C line at Dipalpur (Sonipat) (Length: 1 km).

3.2 The transmission line has passed through 4 districts in different villages as is mentioned in the public notice dated 12.07.2010.³ The districts are Bhiwani, Jhajjar, Rohtak and Sonapat. The issue arose regarding compensation to which the landowners may be entitled to for the damages suffered on account of erection of towers and drawing the power lines. The fact remains that ownership of land is not transferred.

³ Available in the record of the Trial Court in CS No. 6 of 2017 at page 267.

4. As there are certain glaring errors in the judgment of the High Court deciding bunch of petitions pertaining to land falling in different districts, to put the record straight we wish to narrate brief facts of all the appeals.

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5. These appeals arise out of common judgment of the High Court wherein challenge was made to different judgments and decrees passed by the Ld. Additional District Judge, Sonapat in 3 different applications filed by landowners under Section 16(3) of the Indian Telegraph Act, 1885.⁴ These three applications were registered as Civil Suits bearing CIS No. CS/5/2016, titled as *“Tara Chand and Ors. versus Kalpa-Taru and Ors.”*, CIS No. CS/6/2016 titled as *“Vinod and Another versus Kalpa-Taru and Ors.”* and CIS No. CS/7/2016 titled as *“Pramod Kumar etc. versus Ministry of Power etc.”*. The Ld. Additional District Judge, Sonapat awarded compensation @ 85% of collector rate i.e., ₹85,00,000/- per acre along with interest @ 8%, for the tower base area (land beneath the four legs of the tower).

⁴ Hereinafter referred to as “the 1885 Act”.

5.1 Both the parties being aggrieved by the judgment and decree of the Trial Court, challenged the same before the High Court. Two Civil Writ Petitions were filed by the landowners under Article 226 of the Constitution of India (CWP-9495-2017 and CWP-21878-2017) seeking enhancement of compensation. Whereas the contractor filed three Civil Revision Petitions under Article 227 of the Constitution of India (CR-3502-2017, CR-3503-2017 and CR-3830-2017). Two Civil Writ Petitions (CWP-26406-2017 and CWP-28570-2017) were filed by HVPNL, Panipat challenging the quantum of compensation awarded.

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6. The aforesaid appeals have been filed against the judgment of the High Court in CWP-21878-2017 and CWP-9495-2017 and the same judgment is under challenged in Civil Appeals arising out of S.L.P.(C) No.14936/2023 and 14940/2023 (@ S.L.P.(C) Nos.14936-14942 of 2023) seeking further enhancement of the compensation awarded. The land pertains to the District Sonapat.

6.1 Since the parties in the aforesaid appeals are common and are being represented, we do not consider it appropriate to issue formal notice in these appeals and the same are being disposed of along with the bunch of appeals.

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7. Challenge in present appeals is also to the same common judgment of the High Court dated 24.02.2023. Land involved forms part of district Jhajjar. Before the High Court, two Civil Revision Petitions bearing CR-1280-2020 and CR-2873-2021 were filed by the contractor and the landowner, respectively. The issue again pertained to assessment of fair compensation on account of utilization of land owned by the landowners for erection of tower or drawing power lines. An application was filed by the landowner under Section 16(3) of the 1885 Act bearing CM No. 516 of 2013 titled "*Rati Ram versus State of Haryana and Ors.*" before the Additional District Judge, Jhajjar. The Trial Court initially vide order dated 07.11.2016 awarded total compensation of ₹30,00,000/- under various heads. The aforesaid order was challenged by the contractor before the High Court by filing CR No. 3420 of 2017.

The High Court vide order dated 19.08.2019 set aside the order of the Trial Court and remanded the case back for determination of compensation afresh. On remand, the Trial Court vide order dated 20.12.2019 assessed the total compensation at ₹26,12,000/- to be paid along with interest @ 18% per annum from April 2011 till realization. The compensation was awarded under various heads.

7.1 The order passed by the Trial Court in CM No. 516 of 2013 seems to be erroneous on the face of it. In paragraph 6 of the order, documentary evidence led by the landowners has been referred to. There are five exhibits and three documents which have been marked. In paragraph 18 of the order passed by the Trial Court, reference has been made to Exhibits P-5 to P-8 as sale deeds, which are not mentioned in paragraph 6 as such. Further Exhibit P-5 is stated to be an attested copy of the Notice dated 07.12.2011 of HVPNL. Further, the manner in which the compensation has been assessed cannot be made out. The High Court has failed to notice this aspect of the matter.

REGARDING IMPUGNED ORDER

8. Aggrieved by the aforesaid judgments/orders of the Trial Court, at Sonapat and Jhajjar both parties filed petitions before the High Court. While deciding the bunch of petitions, the High Court noticed the facts pertaining to land in district Sonapat only and assessed the compensation in all cases. The facts pertaining to district Jhajjar were not even touched. May be counsels did not argue. A uniform compensation @ 85% of the collector rate beneath the tower area, which was determined at ₹1.50 crores per acre was awarded to the landowners. Besides this, for diminishing the value of land across the width of Right of Way (ROW), 15% of the value of land was awarded as compensation. It was on account of imposition of restrictions on utilization thereof.

ARGUMENTS OF THE CONTRACTOR

9. Mr. Nidhesh Gupta, learned senior counsel appearing for the Contractor challenged the judgment of the High Court, whereby the damages payable to the landowners were further enhanced. He submitted that there was no basis for assessment of huge compensation on account of use of the

land for erection of towers and drawing of the power lines. The area beneath the transmission lines could be utilized by the landowners, however, subject to certain restrictions. The ownership of the land is not transferred. Section 10 of the 1885 Act authorizes the authority concerned to erect towers and draw power lines, for which only right to use is acquired, warranting compensation to that extent only. The assessment of compensation by the Additional District Judge, Sonapat, which was further enhanced by the High Court, was totally on erroneous grounds and without any basis. Some studies related to effects of electromagnetic waves on the yield of crops, which may be available on internet, have been relied upon by the Additional District Judge, Sonapat, which in fact, have no basis and was not even confronted to any of the parties, before the same were relied upon. It was not even the case of the landowners as the same was not part of the evidence led.

9.1 It was further argued that the towers were erected and the power lines were drawn, running into about 100 kms falling in Jhajjar, Sonipat and other districts. In the case in hand, the value of land was equivalized for the stretch of the land passing under the transmission lines falling in different districts,

regardless of the fact whether the towers and lines were situated close to some National Highway or State Highways or running through agricultural areas having no road connectivity as such. Thus, the assessment of compensation at uniform rate for the entire land cannot be legally justified.

9.2 Reliance on the guidelines issued by the Ministry of Power, Government of India bearing No.3/7/2015-Trans (“MOP Guidelines”) dated 15.10.2015 is totally misplaced in these cases for the reason that these were issued much after the transmission line in question had already been drawn and further these were required to be adopted by the concerned State/UTs. It is the case of State of Haryana, that the aforesaid guidelines had not been adopted, hence, invocation of those guidelines for the purpose of assessment of compensation was totally uncalled for.

9.3 In support of the argument, reliance was placed upon judgments of this Court in *Janardhan Reddy and others vs. State*,⁵ *The Kerala State Electricity Board, Trivandrum vs. T.P.*

⁵ AIR 1951 SC 124 : 1950 INSC 37.

*Kunhaliumma*⁶ and *Suhas H. Pophale vs. Oriental Insurance Company Limited and Its Estate Officer*.⁷

ARGUMENTS OF THE LANDOWNERS

9.4 On the other hand, learned counsel for the landowners submitted that there is no error in the assessment of compensation by the High Court on account of damages suffered by them. Hence, the appeals filed by the contractor deserve to be dismissed. As far as the appeals filed by the landowners are concerned, the compensation awarded by the High Court, deserves to be enhanced further. For the land beneath the legs of the towers, the landowners are entitled to 100% compensation and not @ 85% of the value of the land since such area is rendered completely non-utilizable. Further, even for the land areas falling under the overhead power lines (Right of Way Corridor), lot of restrictions are imposed on the use of land, hence, compensation on that account also deserves to be enhanced.

10. Heard learned counsel for the parties and perused the relevant records.

⁶ AIR 1977 SC 282 : 1976 INSC 272.

⁷ AIR 2014 SC 1509 : 2014 INSC 92.

DISCUSSION

11. The facts of the cases in brief have already been referred to in paragraph 3 to 7 of the judgment, hence, are not being repeated. The land was acquired for execution of the project titled, "400 KV Jhajjar Power Transmission System-PPP-1". Transmission line has the total length of 100 km passing through four districts, namely, Jhajjar, Rohtak, Bhiwani and Sonapat. We have matters before this Court pertaining to portions of the land utilized for the project which fall in districts Sonapat and Jhajjar. The first error committed by the High Court, which is apparent on the face of it is that cases pertaining to areas falling in two different districts have been decided by a common judgment while referring to the material with reference to district Sonapat only.

12. Another error committed by the High Court in the impugned judgment is that the matter was dealt with as if it was a writ petition filed on the original side dealing with an issue raised for the first time. Rather, challenge before the High Court in the writ petition filed under Article 226 and some petitions filed under Article 227 was to the judgments of the Trial Court, which were delivered on appreciation of evidence.

The High Court, merely on the basis of pleadings in the High Court stating that the same has not been denied, has recorded findings.

13. A perusal of the impugned judgment reveals that the High Court solely and heavily relied on the findings of the Trial Court in the case of district Sonapat. The High Court while quoting paragraph 23 of the Trial Court's judgment in Sonapat matter, observed that the contractor had installed towers and high-tension wires on the landowners' land but had not paid any compensation for the land covered under the poles of the towers or for the diminution of value of such land, although some compensation was paid for damage to the crops at the time of erection. The Trial Court had opined that this action of erecting towers and high-tension wires without paying compensation for the land covered or its diminished value was in violation of Articles 21, 39A, and 41 of the Constitution of India.

14. The High Court noticed the location of the land, to be part of the National Capital Region and is stated to be situated merely 6 acres/killas from the G.T. Road, in an area where land prices had already doubled. While holding that this was not a

case of land acquisition *stricto sensu*, but merely the right of way is taken, the High Court proceeded to examine the fair amount of compensation to which the landowners were entitled to. The Court relied on the guidelines issued by the Ministry of Power, Government of India on 15.10.2015. As far as the consent of the State was concerned, it was deemed to have been given since the State had not objected against the guidelines or submitted any representative comments against the same when these were circulated by the Ministry of Power to all the States/UTs.

15. We are not approving the manner adopted by the High Court for assessment of compensation. The fact remains that the compensation has been calculated on the basis of collector's rate, which will be a matter of evidence pertaining to each area where the land is situated. The collector rate which has been referred to in the impugned judgment passed by the High Court pertained to only district Sonapat. Apparently, there was no evidence on record produced by the landowners to that extent. As is evident from the impugned order passed by the High Court, three sale deeds, Exhibits P-9, P-11 and P-12 were produced by the landowners pertaining to district Sonapat.

These however, pertained to village Livaspur and Rathdhana and not to village Rai to which the land belonged to. The High Court considered the matter as if it was dealing with the same on original side as a writ petition. While observing that the allegations made by the landowners in the writ petitions had not been denied, the High Court relied upon the collector's rate as pleaded by the landowners. Finally, rejecting the valuation shown in various sale deeds produced by the landowners, the High Court referred to the collector's rate fixed for village Rai at ₹1.50 crores per acre and awarded compensation @ 85% thereof for the Tower Base Area and compensation @15% towards diminution of land value in the width of ROW Corridor. The aforementioned compensation was ordered to carry interest @ 8% per annum. Although the Collector's award was not part of the formal evidence, the Court relied upon it, noting that the pleading to that effect had not been denied by the contractors.

16. No doubt, the landowners whose land is utilized for right of way by the contractor for drawing the high-tension lines and for erection of towers are entitled to be compensated adequately, but how that compensation is to be assessed is the

moot question, which the Trial Court as well as the High Court have failed to appreciate. The basic issue which lost sight of was that it was not a chunk of land located at one place for which compensation could be assessed by considering the value of the land in the vicinity. It was a belt of land running into 100 kms. While referring to the facts of one case that the suit land forms part of the National Capital Region and is located at a distance of 6 acres/killas from G.T. Road, compensation for the land question, which is located in two different districts, was assessed at the same rate. However, this locational advantage cannot be uniformly applied to the entire transmission corridor, as the transmission line is running through 100 kms in different districts and villages with vastly different characteristics. Some portion of land may be close to a National Highway or State Highway or some other roads; some may be close to Abadi, whereas some portion of land may be falling within rural areas where the land is used only for agricultural purpose and with no connectivity by roads as such. Applying a uniform rate for the entire transmission corridor would not be a proper methodology for assessing fair compensation to which the landowners are entitled to. Nothing

was pointed out at the time of hearing regarding status of any other petition filed by the landowners at any other place seeking compensation. In the absence thereof we are unable to examine as to what method was adopted therein.

16.1 A somewhat similar issue came before the High Court in *State of Haryana and Another vs. Pala Ram and Others*.⁸ That case concerned acquisition of land for the construction of BML Hansi Butana Multipurpose Link Channel, however, the principles laid down therein may be relevant to the present matter. In that case, the entire channel length was 108 km, with land forming part of 52 villages across four districts. The High Court laid down the methodology for assessing compensation in such cases. It may be relevant for the reason that correct method is to firstly assess the value of land and thereafter determine the compensation payable to the landowners.

17. This Court observed in the case of *Kerala SEB v. Livisha*,⁹ that although there cannot be any hard and fast rule to determine compensation in cases of telegraph lines and electrical lines, certain factors should be looked into. The

⁸ 2012 SCC Online P&H 24551.

⁹ (2007) 6 SCC 792 : 2007 INSC 638.

observations of the court in the aforesaid case are extracted hereinbelow:

“7. We may, however, notice that in one of the impugned judgments, a learned Single Judge of the High Court held:

“The court below has fixed the land value at Rs 20,000 per cent and the rate of diminution at 40%. Taking Exhibits A-1 and A-2 produced, the lower court is correct in fixing the land value at Rs 20,000 per cent, (sic which) cannot be the reasonable land value in this case. Hence I fix the land value in this case at Rs 30,000 per cent. So also the rate of diminution in land value is fixed at 50% instead of 40% fixed by the court below. The order passed by the court below is modified accordingly.”

No reason has been assigned in support of the above view. The materials placed on record were not analysed. Why such a view was taken also does not appear from the records of the case. The amount of compensation is required to be determined keeping in view the purpose and object of the statute. There cannot be any fixed formula therefor or the other. Although undoubtedly one formula laid down may assist the Board and/or the Reference Court to apply the same, but there cannot be a hard-and-fast rule in

this behalf. A fixed formula for determining the amount of compensation although may make the task of the Land Acquisition Officer or the Reference Court easier but in our opinion each case is required to be taken on its own merit. We may hasten to add that the purpose and object of the Act and the methodology laid down therein for the purpose thereof should be the guiding factor.

(emphasis supplied)

x x x

9. Both telegraph lines and electrical lines are required to be drawn over the agricultural lands and/or other properties belonging to third parties. In drawing such lines, the entire land cannot be acquired but the effect thereof would be diminution of value of the property over which such line is drawn.

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

the property for the purpose for which the same was meant to be used.”

18. Certain other arguments have also been noticed by the High Court regarding adoption of MOP Guidelines dated 15.10.2015 regarding assessment of compensation for the Tower Base Area (land beneath four legs of the tower) and the ROW Corridor. In the case in hand, sole reliance of the landowners is on the MOP Guidelines dated 15.10.2015. The question arises as to whether these guidelines are applicable, even assuming the deemed consent was there, as opined by the High Court. The notification in the present case was published on 12.07.2010. Even the notice regarding erection of towers and drawing of power lines was issued to the landowners on 27.12.2011 and they had filed petition under Section 16(3) of the 1885 Act before the District Judge on 06.04.2012. Meaning thereby, everything happened much before the aforesaid guidelines were issued. Paragraph 4 of the guidelines clearly provides that States and Union Territories were requested to take suitable decisions regarding adoption of the guidelines, considering that acquisition of land is a State

subject. According to these guidelines, compensation for the area beneath the four legs of a tower is fixed at 85% of the circle rate to be determined by the District Magistrate or any other competent authority. For the Right of Way (ROW) corridor falling under the transmission lines, the maximum compensation provided is 15% of the land value. The use of the word “maximum” is of relevance. Further, whether administrative instructions could control the judicial power of the Court ? The question needs to be addressed.

19. The High Court failed to appreciate the fundamental fact that land pertaining to different villages falling in different districts, which may be the subject matter of consideration for assessment of compensation, would have been assessed differently by the Collector based on their respective locations and characteristics. Even in the case in hand, facts only pertaining to district Sonapat have been discussed. From Page 24 of the impugned judgment, it is evident that the land involved even in those cases, is located at different places, some close to Highway, whereas some at a distance.

20. For the reasons mentioned above, in our view, the order passed by the High Court cannot be legally sustained,

hence, the same is set aside and the matters are remitted back to the High Court for fresh consideration in accordance with law.

Re-RIGHT OF APPEAL

21. During the course of arguments before this Court, learned counsel for the parties referred to various factual matrix, pointing out errors not only in the judgment of the Trial Court but also of the High Court. It was also submitted that the factual aspects and the evidence led by the parties was not properly appreciated by the High Court. When the matter was examined, this Court also noticed these facts and found it appropriate to give opportunity to the counsel for the appellant to assist the court on the issue as to whether there should be some remedy of appeal against order passed by the District Judge, so that the facts of the case could be examined in detail. The appellants have submitted a note.

22. The case in hand pertains to erection of towers and drawing the power lines, for which right of way was taken. There being no independent provision available for the same in

the Electricity Act, 2003, the provisions of the 1885 Act have been adopted in terms of Section 164 of the 2003 Act.

23. Section 10 of the 1885 Act confers powers on the Telegraph Authority to place and maintain the telegraph lines and posts. Proviso (b) to the aforesaid section provides that the Central Government shall not acquire any right other than the right of user in the property upon which the authority places any telegraph line or post. Clause (d) of the proviso provides for payment of compensation. Relevant part of Section 10 of the 1885 Act is extracted below:

“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) x x x

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

(c) x x x

(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.”

23.1 Section 16 of the 1885 Act deals with assessment and payment of compensation. Relevant portion of the aforesaid section is extracted below:

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

(1) & (2) x x x

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may

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

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

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

23.2 On a perusal of Section 16(3) of the 1885 Act, it is evident that in case of dispute regarding sufficiency of compensation, application can be filed before the District Judge, within whose jurisdiction the property is situated. However, the 1885 Act does not provide any timeline within

which such an application can be filed, nor does it specify the starting point of limitation for the purpose.

23.3 Similarly, Section 16(4) of the aforementioned Act provides for resolution of disputes *inter se* the parties with reference to their entitlement to compensation. In such situation, the authority is required to deposit the amount of compensation with the District Judge, who will finally determine the rights of the parties.

23.4 Section 16(5) provides that any order passed by the District Judge under sub-sections (3) or (4) shall be final, thereby precluding any appeal. The same cannot be challenged before Civil Court. Only extraordinary jurisdiction of the High Court can be invoked, wherein normally the findings of facts are not disturbed, and evidence is not reappreciated. The High Court proceeds only on undisputed facts under its power of judicial review.

24. Section 7-B of the 1885 Act talks of arbitration of disputes and sub-section (2) provides that the award of the arbitrator appointed under sub-section (1) thereof shall be conclusive between the parties to the dispute and shall not be

questioned in any court. Meaning thereby, there is finality attached to the same. While dealing with the scope of challenge to an award passed under section 7-B of the 1885 Act, to which finality has been attached, this Court in *M.L. Jaggi Versus Mahanagar Telephones Nigam Ltd. and Ors.*,¹⁰ opined that in such circumstances, the only available remedy to a party aggrieved by such an award is to seek judicial review by way of writ petition. The High Court will not sit in appeal over the award but will only examine its correctness and legality within the limited confines of judicial review.

25. To complete the narration with reference to the scheme of the 1885 Act, we may add that Section 15 of the aforesaid Act provides for resolution of disputes between the telegraph authority and a local authority. An appeal from such resolution by a designated officer, has been provided to the Central Government.

26. As evident from the facts of the case and is a matter of common knowledge, assessment of fair value of land requires evidence to be led by both parties. Based on such evidence, value of land is determined. This factor is equally

¹⁰ (1996) 3 SCC 119: 1996 INSC 6

relevant for assessing compensation for the land coming beneath four legs of the towers or under the power lines as ROW is taken. If crops are standing on the land, for assessment of value thereof, or the quantum of damages suffered, evidence will be required. Even if the MOP guidelines issued by the Ministry of Power, Government of India are to be considered, there may still be issues regarding the rates fixed by the Collector for a particular area. This can also be subject matter of dispute. Furthermore, for determining the rights of various parties to receive compensation in case there is *inter se* dispute, certain amount of evidence would be required.

27. In the present case as well, some parties invoked Article 226 of the Constitution, whereas others filed petitions invoking Article 227 of the Constitution. This is solely because no proper appellate remedy has been provided. The only scope of interference in exercise of extra-ordinary jurisdiction of the High Court would be within the parameters of judicial review.

28. If we examine the scope of first appeal under any statute, entire case is open for re-hearing, both on questions of facts and on law. The First Appellate Court is required to address all the issues considered in the order impugned and

decide the same by giving reasons. It is in fact continuation of the original proceedings. The power of the First Appellate Court is co-extensive with that of the trial court, unless the scope thereof is limited by the statute which provides for the appellate jurisdiction.

29. As is evident from the provisions of the 1885 Act, there is no amendment in Sections 10 and 16, ever since the same was enacted. It may be noted that when the 1885 Act was enacted, there was limited development and there may have been few cases requiring determination of compensation under the aforementioned Act. The value of the land was also in peanuts. However, with the rapid pace of development in the electrical and power sector, the volume of litigation has increased significantly, necessitating assessment of compensation under the 1885 Act.

30. Besides there being no appellate remedy, we find that there are other gaps as well in the statutory scheme.

30.1 A reading of the provisions of Sections 10 and 16 of 1885 Act reveals that in addition to no remedy of appeal being provided against the order passed by the District Judge, no

timelines have been provided regarding payment of compensation to the affected parties after the right under Section 10(d) is exercised by the competent authority; the time during which any party can raise grievance about sufficiency of compensation so assessed. The provisions are also silent about the time during which a landowner can file an application before the District Judge in case sufficiency of compensation is disputed. The Act also does not provide the rate at which interest is to be paid to the landowners in case there is any delay in payment of compensation. This being an Act of Parliament, its application has to be uniform throughout the country. In the absence of defined parameters, it will depend on different courts, how they interpret the provisions.

31. In the case in hand, certain rights were taken by the authority concerned for the erection of electric towers and drawing the power lines and not the ownership of the land. There are many different statutes under which the ownership of the land is acquired by the competent authority in exercise of powers conferred under those statutes. Wherever such a power is exercised, the natural corollary is, the landowner is to be

adequately compensated. Detailed procedure and timelines for different actions have been provided under those statutes.

31.1 If we consider the provisions of erstwhile Land Acquisition Act, 1894, procedure as well as timelines had been provided for various actions to be taken in case there is acquisition of land, even remedy of appeal against the award of the District Judge/Additional District Judge had also been provided. Rate of interest was also prescribed.

31.2 Similar is the position under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Detailed procedures have been provided in case any party is not satisfied with the compensation awarded. Matter can be referred to the Authority as established under Section 51 of the aforesaid Act. Against an order passed by the Authority, an appeal is provided to the High Court. The rate of interest on account of delay in payment of compensation has also been prescribed.

31.3 Further, in the Requisitioning and Acquisition of Immovable Property Act, 1952, the adequacy of compensation is assessed through the process of arbitration. Though

provisions of the Arbitration and Conciliation Act, 1996¹¹ have not been made applicable, remedy of appeal to the High Court has been provided.

31.4 Under the National Highways Act, 1956, the dispute regarding adequacy of compensation is referred to arbitration and the provisions of the 1996 Act have been made applicable, hence, the remedies available thereunder could be availed of.

31.5 Similar provisions are present in the Railways Act, 1989. Reference can also be made to the provisions of Coal Bearing Areas (Acquisition and Development) Act, 1957.

32. It is noticed that under the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962¹², the provisions are similar to the case in hand. In fact, Section 10 of the aforesaid Act is *pari-materia* to Section 16 of the 1885 Act. District Judge of the concerned district is the competent Court, whose jurisdiction can be invoked to challenge the sufficiency of compensation. As per Section 10(6) of the aforesaid Act, order of the District Judge is final.

11 Hereinafter, "1996 Act"

12 Hereinafter referred to as "the Petroleum Act".

33. Needless to add here that, in the process of determination of compensation, evidence will have to be led by the parties. Unless statutory remedy of appeal is provided where all issues of law and facts can be re-examined, any other remedy may be illusory. As is noticed in the facts of the present case, the remedies availed by different parties were different. In some of the cases, writ petitions were filed by the landowners under Article 226 of the Constitution of India, impugning the judgment and decree of the civil court and in some of the cases, the contractor as well as the landowners filed petitions under Article 227 of the Constitution of India. Reappreciation of evidence in those proceedings may be an issue. Remedy may not be effective and can become illusory.

34. Not only this, but the anomalies as have been referred to in the paragraph 30 with reference to various timelines as well, the matter needs to be examined.

35. In the aforesaid background, we are of the opinion that these issues need to be examined by the Law Commission of India and the Ministry of Law and Justice, Government of India, so as to determine whether a statutory remedy of appeal should be provided against judgments/orders passed under

Sections 16(3) and 16(4) of the 1885 Act, the Petroleum Act or any other similar statute.

NEED FOR UNIFORMITY IN NOMENCLATURE OF CASES

36. Section 16(3) of 1885 Act, provides that an application can be filed before the District Judge in case of a dispute related to compensation. In district Sonapat, such an application was registered and numbered as a Civil Suit where a judgment and decree has been passed. Whereas in district Jhajjar, the same was registered as a Civil Miscellaneous Application and only judgment has been passed. There is need to bring uniformity in the nomenclature to be assigned to these kinds of proceedings, which may come to the court under the 1885 Act and also the proceedings under the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962.

RELIEF ON MERITS

37. For the reasons mentioned above, in our view, the order passed by the High Court cannot be legally sustained, hence, the same is set aside and the matters are remitted back to the High Court for fresh consideration in accordance with

law. The civil appeals are accordingly disposed of. Keeping in view the issues involved, we request the High Court to make an effort to take up the matters expeditiously.

37.1 Pending application(s), if any, are accordingly disposed of.

DIRECTIONS

38. A copy of this order be sent to the Registrar General of the High Court of Punjab and Haryana for placing the same before Hon'ble Chief Justice for taking the appropriate steps in terms of observations made in paragraph 36 above.

39. The Registry of this Court shall forthwith send a copy of this order to the Secretary, Legislative Department, Ministry of Law and Justice, Government of India to examine the issue and take appropriate steps.

.....J.
(M.M. SUNDRESH)

.....J.
(RAJESH BINDAL)

New Delhi
August 19, 2025.