

(2011) 06 KAR CK 0029
In the Karnataka High Court
Case No : Writ Petition No. 18750 of 2011

Smt. Puttamma and Others

APPELLANT

Vs

Executive Engineer (Elc.) KPTCL, Major Works Division,
Hassan and Another

RESPONDENT

Date of Decision : 14-06-2011

Acts Referred:

Electricity Act, 2003 — Section 164
Telegraph Act, 1885 — Section 10 (d), 16, 16 (1)

Citation : AIR 2012 Kar 5 : (2012) 1 RCR(Civil) 744

Hon'ble Judges : B.S. Paul, J

Bench : Single Bench

Advocate : K.S. Ganesha, for the Appellant; N. Krishnananda Gupta for No. 1,
for the Respondent

Judgement

B.S. Paul, J.—In this writ petition the petitioners are aggrieved by the order passed by the District Magistrate, Chikmagalur on 12.5.2011 u/s 16(1) of the Indian Telegraph Act, 1885, directing the petitioners and any persons claiming under them not to obstruct the first respondent in installing the electrical tower for the purpose of laying a new power line on location No. 166, as the laying of the tower according to the first respondent was necessitated due to the existing 66 KV power line getting deteriorated.

2. The Executive Engineer approached the District Magistrate by filing a petition u/s 164 of the Electricity Act 2003 and Section 16 of the Indian Telegraph Act, 1885. The District Magistrate, after hearing both parties has passed the impugned order holding that in the interest of public, the permission deserved to be granted to the first respondent to lay the power line by preventing the petitioners from obstructing the work in the land in Sy. No. 31 of Basvanahalli Village, Kasaba Hobli, Chikmagalur Taluk.

3. The main contention of the petitioners before the District Magistrate and as well as before this Court is that the first respondent-Executive Engineer could not

have laid the line by installing the tower without assessing the compensation payable to the petitioners. According to the learned counsel, as the agricultural land of the petitioners was being damaged, they are entitled for payment of compensation for the loss and damage to be caused to their lands on account of the installation of the tower and the drawing of power line.

4. The learned counsel appearing for the first respondent invites the attention of the Court to sub-clause (d) of Section 10 of the Act to contend that compensation for damages sustained by the owner will be assessed in accordance with law and the same will be paid. He also draws the attention of the Court to sub-clause (3) of Section 16 to contend that if any dispute arises concerning sufficiency of compensation to be paid as per Section 10(d), the affected person can make an application before the District Judge concerned within whose jurisdiction the property is situated to determine the sufficiency of compensation payable. He, therefore, contends that there is no justification for the grievance made by the petitioners against the order passed by the District Magistrate.

5. Upon hearing learned counsel for the parties and on consideration of the entire materials on record, I find that the order passed by the District Magistrate is unexceptional and does not deserve interference, particularly, keeping in mind the requirement of public interest to draw a power line by erecting the tower. However, it cannot be lost sight that the petitioners, who are complaining of damage to their lands cannot be denied the compensation to which they are entitled in law.

6. The respondent No. 1-Executive Engineer is duty bound to assess the compensation payable to the petitioners in accordance with law. This does not mean that the petitioners can prevent the authorities from drawing the power line and installing the tower unless the compensation is paid, the two things are distinct.

7. The order of the District Magistrate therefore cannot be interfered with. At the same time, a direction needs to be issued to the first respondent to assess the compensation and pay the same to the petitioners expeditiously, at any rate, within a period of three months from the date of receipt of a certified copy of this order. Ordered accordingly.

8. This writ petition is disposed of in terms stated above.