

ITEM NO.38

COURT NO.6

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 4634-4635/2021

(Arising out of impugned final judgment and order dated 20-01-2021 in WAMD No. 1096/2020 20-01-2021 in WAMD No. 1098/2020 passed by the High Court Of Judicature At Madras At Madurai)

D. BALAKRISHNAN

Petitioner(s)

VERSUS

K.S. WIND AND RENEWABLES INDIA PVT. LTD. & ORS.

Respondent(s)

(IA No. 40340/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No. 40341/2021 - EXEMPTION FROM FILING O.T.; IA No. 133560/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 23556/2022 (XII)

IA No. 173792/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No. 173793/2022 - EXEMPTION FROM FILING O.T.
IA No. 134541/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 23560/2022 (XII)

(IA

FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 176445/2022

FOR EXEMPTION FROM FILING O.T. ON IA 176447/2022

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 134548/2023

IA No. 176445/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 176447/2022 - EXEMPTION FROM FILING O.T.

IA No. 134548/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 23557/2022 (XII)

IA No. 174771/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 174772/2022 - EXEMPTION FROM FILING O.T.

IA No. 134540/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Signature Not Verified
Digital Signature of
VARSHINI MENON
Date: 2024.03.23
12:36:06 IST
Reason:

Date : 22-03-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.B. PARDIWALA

HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv.
 Mr. C Paramasivam, Adv.
 Mr. Nishant Sharma, Adv.
 Ms. Adviteeya, Adv.
 Mr. Rakesh K. Sharma, AOR

For Respondent(s) Mr. Goutham Shivshankar, AOR

Mr. Sajan Poovayya, Sr. Adv.
 Ms. Tine Abraham, Adv.
 Mr. Syed Jafar Alam, AOR
 Ms. Harneet Kaur, Adv.
 Ms. Jojongandha Ray, Adv.
 Ms. Raksha Agrawal, Adv.

Mr. K. Radhakrishnan, Sr. Adv.
 Mr. D.kumanan, AOR
 Mrs. Deepa. S, Adv.
 Mr. Sheikh F. Kalia, Adv.

**UPON hearing the counsel the Court made the following
 O R D E R**

- 1. On 06.02.2024, this Court passed the following order:-**

"Having heard the learned counsel appearing for the parties and having gone through the materials on record, we take notice of the fact that the Transmission (Pylons) towers have already been erected in the agricultural land owned by the appellants herein. In short, the entire project has been commissioned. However, it seems that adequate compensation is yet to be paid to the petitioners. If we go by the position of law insofar as determination of compensation is concerned, Section 16 of the Indian Telegraph Act, 1885 would govern the field. Section 16 reads thus:

"16. Exercise of powers conferred by section 10, and 3 disputes as to compensation, in case of property other than that of a local authority.—
 (1) If the exercise of the powers mentioned in

section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code (45 of 1860).

(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."

If the entire exercise as provided under Section 10 of the Act referred to above is to be undertaken the same may perhaps consume a lot of time. In such circumstances, the parties should sit together and arrive at some understanding as regards the amount of compensation to be paid. The learned counsel appearing for the parties shall instruct their clients accordingly and have a first meeting in this regard at the Mediation Centre of the Madras High Court at Madurai Bench within one week from today.

List after two weeks alongwith the appropriate report of the District Legal Services Authority of the mediation centre at Madurai."

2. We are informed that the parties have not been able to arrive at any amicable settlement so far as the quantum of compensation to be paid to the petitioners is concerned. In short, the Mediation failed.

3. In such circumstances referred to above, we were left with no other option but to hear the matters on merits to some extent.

4. It has been brought to our notice that the District Revenue officer, Karur, by five distinct orders, has

determined the amount of compensation to be paid to each of the petitioners. This amount of compensation determined by the District Revenue Officer is towards the use of the land on which the respondent nos. 5 and 6 respectively, have been erected a tower for the purpose of transmission.

5. We are also informed that the tower has been erected on the land of one of the petitioners. So far as the other four petitioners are concerned, no towers have been erected on their land but only high tension lines are passing through their land.

6. The petitioners are not satisfied with the manner in which the amount to be paid towards compensation has been determined by the District Revenue officer.

7. In such circumstances, the only option now available for the petitioners is to file an appeal before the concerned District Judge in accordance with the provisions of Section 16, sub-section 3 of the Indian Telegraph Act, 1885.

8. The learned counsel appearing for the petitioners submitted that his clients would prefer an appropriate appeal before the concerned District Judge within a period of two months from today. If any appeals are filed by the petitioners, the District Judge shall adjudicate those appeals in accordance with law and on its own merits.

9. We record the statement of the learned counsel appearing for the respondents no.5 and 6 respectively, that his clients shall not raise any objection as regards the maintainability of the appeals that may be filed before the District Judge on the ground that the appeal before the District Judge can be filed only against the order passed by the District Collector.

10. The learned counsel appearing for the respondents no. 5 and 6 respectively clarified something important that in the present litigation, the District Collector does not come into picture because the respondents no. 5 and 6 respectively have acted as licensees under the provisions of Section 164 of the Electricity Act, 2003 and in such circumstances, the compensation has to be determined by the District Revenue Officer.

11. We are further informed by the learned counsel appearing for the respondents no.5 and 6 respectively that the amount to be paid towards compensation has already been determined sometime in 2015 in accordance with the guidelines issued by the Ministry of Power relating to the Right of Way (Row) compensation. Whatever amount has been determined shall be paid within a period of two weeks from today to the respective petitioners without prejudice to their rights and contentions for the purpose of enhancement of the compensation.

13. With the aforesaid observation, this petitions stand disposed of.

14. Pending application(s), if any, shall stand disposed of.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(RAM SUBHAG SINGH)
COURT MASTER (NSH)