

The Executive Engineer Vs. Doddakka

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Court : Karnataka

Decided On : Aug-06-2014

Judge : B.S.Patil

Appeal No. : WP 39979/2013

Appellant : The Executive Engineer

Respondent : Doddakka

Advocate for Def. : Sri. Spoorthy Hegde Nagaraja

Judgement :

1 WP.39979/2013 IN THE HIGH COURT OF KARNATAKA AT BANGALORE DATED THIS THE6H DAY OF AUGUST, 2014 BEFORE THE HONBLE MR.JUSTICE B.S.PATIL W.P.No.39979/2013 (GM-KEB) BETWEEN1 THE EXECUTIVE ENGINEER KPTCL, MAJOR, WORKS DIVISION, KSRTC DEPOT ROAD, CHITRADURGA2 ASSISTANT EXECUTIVE ENGINEER MAJOR WORKS SUB-DIVISION, KPTCL (BESCOM) KSRTC DEPOT ROAD, CHITRADURGA. ... PETITIONERS (By Sri.B RUDRAGOWDA, ADV.) AND DODDAKKA W/O LATE RANGAPPA AGED ABOUT62YEARS AGRICULTURIST BABBU, HIRIYUR TALUK CHITRADURGA DISTRICT. ... RESPONDENT (By Sri.SPOORTHY HEGDE NAGARAJA, ADV.) THIS WRIT PETITION IS FILED UNDER ARTICLES226& 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE

ORDER

DT.1.6.13, PASSED IN MISC.98/11, VIDE ANN-A OF THE LEARNED ADDL. DIST. & SESSIONS JUDGE, CHITRADURGA AND ETC. 2 WP.39979/2013 THIS PETITION COMING ON FOR DICTATING

ORDER

S THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1 Order dated 01.06.2013 passed in Misc.No.98/2011 by the learned Additional District & Sessions Judge, Chitradurga, is challenged by the petitioners - authorities of the Karnataka Power Transmission Corporation Limited (for short, the KPTCL).

2. Facts leading to the case, stated in nutshell are that respondent is the owner of 5 acres 1 gunta of land bearing RS No.156/1 situated at Babbur Village of Hiriyur Taluk in Chitradurga District. In order to transmit electricity, KPTCL has drawn 66/KV High Tension circuit line over the land of the respondent. During the course of drawing the circuit line, the authorities of the petitioner - Corporation have cut coconut trees standing in the said land. They have assessed compensation for the loss caused to the respondent farmer and have paid the same. The respondent - land owner being aggrieved by the amount of 3 WP.39979/2013 damages/compensation paid approached the learned District Judge, Chitradurga by filing a petition under Section 16(3) of the Indian Telegraph Act, 1885 (for short, the Act) claiming compensation. She has contended before the learned District Judge that she was entitled for the value of fruit bearing trees based on the annual yield and also for payment of diminution in the market value of the land having regard to her disability to put her land for use for which she could have used them, but for the drawal of electrical lines.

3. Learned District Judge recorded evidence of the parties. The respondent - landowner has examined herself as P.W.1 and has produced the RTC of the land, photographs showing the destruction of standing trees, Valuation Certificate issued by the Sub-Registrar, Crop Yielding Certificate issued by the APMC.

Petitioner/Corporation has not examined any witness. They have not adduced any evidence, but have produced a memo containing particulars with regard to the extent of 4 WP.39979/2013 land used that is to say the corridor area and the amount paid as compensation.

4. Learned District Judge framed the following points for consideration:

1. Whether the petitioner is entitled for compensation under the head, loss of diminution of value of 28.47 guntas?.

2. Whether the petitioner is entitled for compensation under the head, loss sustained due to cutting up of 14 coconut trees?.

3. If petitioner is entitled for compensation, what is the amount to be paid towards compensation?.

4. To what order?.

5. On consideration of the evidence on record and after referring to the provisions contained under Section 10 of the Act and also placing reliance on some of the judgments on the point, the learned District Judge has come to the conclusion that the landowner was entitled for payment of compensation keeping in mind the corridor area to be computed based on the restriction imposed regarding usage of the land to the extent of 18 meters (9 meters on 5 WP.39979/2013 either side of the electrical line) calculated from the center of the electrical lines. Having regard to the fact that the landowner would be deprived of opportunity to grow tall trees like coconut, arecanut, teak, etc., though he was entitled to grow other crops being the owner of the land even after the electrical line was drawn, the learned District Judge has held that 50% of the market value of the land towards the diminution value of the agricultural land had to be paid as compensation. In coming to this conclusion, the learned District Judge has referred to the judgment in ARYA ANTHERJANAM VS. KERALA STATE ELECTRICITY BOARD, TRIVANDRUM - AIR 1996 KERALA309 Thus, the learned District Judge has proceeded to quantify the compensation in the following manner.

6. The total extent of land involved has been determined as 28.47 guntas. The market value of the land per acre has been taken at `2,00,000/- based on the Certificate issued by the Sub-Registrar, Hiriyr pertaining to land where coconut trees were grown. The market value of the land per gunta has been arrived at `5,000/- as per Ex.P5. 6 WP.39979/2013 For 28.47 guntas of land, 50% of the market value has been determined at `71,175/- being the compensation towards loss of diminution in the value of the land ($5,000/- \text{ per gunta} \times 28.47 \text{ guntas} \times 50 = 71,175/-$). Towards loss sustained for cutting 14 coconut trees, an amount of `1,56,800/- is arrived at. Referring to Ex.R1 produced by the petitioner - Corporation, learned District Judge has found that admittedly there were 14 coconut trees. Taking note of the evidence on record, age of the trees has been arrived at 10 years at the time when the transmission line was drawn. Life span of the coconut tree has been taken as 35 years. Yield of coconuts per coconut tree per annum has been taken as 80 coconuts and price of the coconut is taken at `4/- excluding all expenses. Thus, the amount has been calculated in the following manner: For 14 trees $\times 80 \times 35 \text{ years} \times 4/- \text{ per Coconut} = 1,56,800/-$. Thus, the respondent - landowner has been held entitled for compensation of `1,56,800/- under the head loss of income due to cutting of 14 coconut trees. 7 WP.39979/2013 Compensation has been awarded in the following manner for 28.47 guntas of land consisting of 14 coconut trees:

1. Towards loss of diminution in the value of land : ` 71,175/- 2. Towards loss sustained for cutting of 14 coconut trees : `1,56,800/- Total Less:Already awarded Total entitlement for compensation : `2,27,975/- : `1,12,640/- : `1,15,335/- 8. Thus, `1,15,335/- has been ordered to be paid as compensation along with interest at 6% p.a. from the date of petition till payment.

9. Sri Rudragowda, learned counsel appearing for the petitioner - Corporation has raised twin contentions. First contention is that as the land in question was not acquired by the Corporation, respondent-landowner continues to be the absolute owner of the land. She is only subjected to some inconvenience in the usage of land on account of drawal of the electrical line. Therefore, the claim made by the landowner for payment of diminution value of the land that too at 50% and the order passed by the learned 8 WP.39979/2013 District Judge accepting the said

claim suffers from serious legal infirmity.

10. The second contention urged is that computation of the value of fruit bearing trees cut by the Corporation by using multiplier of 35 is opposed to law laid down by the Apex Court. In support of his contention, he has placed reliance on the judgments of the Apex Court in the case of KERALA STATE ELECTRICITY BOARD Vs. C.P.SIVASANKARA MENON - 2009 AIR SCW388 KERALA STATE ELECTRICITY BOARD Vs. LIVISHA AND OTHERS - (2007) 6 SCC792 STATE OF HARYANA Vs. GURCHARAN SINGH AND ANOTHER - 1995 Supp (2) SCC637 and AIRPORTS AUTHORITY OF INDIA Vs. SATYAGOPAL ROY AND OTHERS - AIR 2002 SC1423 He has also placed reliance on the provisions contained in Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 particularly Section 10 of the said enactment to contend that when right of user of the land by its owner is restricted by utilizing a portion of the same for laying pipelines to transport petroleum products, the Central enactment has prescribed 10% of the market value of the 9 WP.39979/2013 land to be paid as compensation for vesting of the right of user of the land with the Central Government or the State Government or for that matter the Corporation, in addition to compensation, if any, payable for the damage sustained and therefore, the amount payable towards deprivation of the user of the land or restriction of the user of the land by the landowners cannot be more than 10%.

11. Sri Spoorthy Hegde Nagaraja, learned counsel for the respondent - landowner has supported the findings recorded and the conclusion reached by the learned District Judge. He has placed reliance on several judgments to contend that the method adopted by the learned District Judge in awarding diminution in the value of the land at 50% of the market value is just and appropriate. He has also urged that the multiplier adopted for assessing the value of fruit bearing trees that have been cut cannot be found fault with as the loss that the respondent - landowner suffered due to her deprivation from enjoying the fruit bearing trees being her only source of her livelihood cannot be forgotten. He further contends 10 WP.39979/2013 that indeed the learned District Judge has not taken the best price fetched for the coconuts as per the price list produced and the best yield that the respondent - landowner was getting in the land in question as per the evidence

adduced.

12. Learned counsel for the respondent-landowner is critical of the approach of the learned District Judge in taking average price and average yield for quantifying the compensation regarding the value of the trees while adopting the capitalization method. He has placed reliance on the judgment of High Court of Kerala in the case of KERALA STATE ELECTRICITY BOARD VS. M.J.JOHN - (2012) 235 KLR016 rendered in Revision Petition No.34/2008 disposed of on 19.01.2012.

13. Having heard the learned counsel for both parties and on careful perusal of the entire materials on record, the following points arise for consideration in these writ petitions:

1. Whether the learned District Judge was right and justified in awarding 50% of the market value of the 11 WP.39979/2013 land as diminution value towards deprivation of usage and utility of the land resulting from the drawal of high tension electrical lines (66 KV electrical transmission line)?.

2. Whether the method adopted for valuing the fruit bearing coconut trees applying the multiplier of 35 while capitalizing the net income is just and appropriate?.

3. What is the method to be adopted for assessing the compensation to which the landowners are entitled?.

14. It cannot be disputed that drawing up of high voltage electrical line through any property by the petitioners in exercise of the powers conferred on them under Section 10 of the Indian Telegraph Act, 1885, would result in damage to the value of the property, apart from causing damage to the standing trees. It is for this reason provision has been made under Section 10(d) of the Act, requiring the Telegraph Authority to do as little damage as possible and shall pay full compensation to all persons interested for any damage sustained by them by reason of exercise of those powers by the Telegraph Authority. It is also evident from Section 11 of the Act that the Telegraph Authority has got the power to enter on 12 WP.39979/2013 the property in order to repair or remove the telegraph line or both and also for the purpose of examining, repairing, altering or removing the

same at any time. Section 16(3) of the Act, provides for the Forum, namely the Court of the District Judge within whose jurisdiction the property is situated to determine any dispute concerning sufficiency of compensation to be paid under Section 10(d) of the Act. It is thus clear from the aforementioned provisions that, a farmer who suffers damage to his crop and to the land on account of drawing up of transmission line over or across his land, is entitled for payment of full compensation. The expression full compensation used in Section 10(d) of the Act has to be understood as just equivalent of which the owner has been deprived of including in the matter of diminution in the value of the land on account of drawing up of overhead power line across the land.

15. In the instant case, the land consists of 14 coconut trees, which were planted at the edge of the land. All these 14 coconut trees have been cut. The line has been drawn across the land depriving the farmer not only of the 14 fruit yielding coconut trees, but also his right and privilege to grow any other 13 WP.39979/2013 tall tree including coconut and arecanut trees in an extent of 28.47 guntas of land. Therefore the respondent is entitled for the value of 14 coconut trees and also for the diminution in the value of the land. As the trees were planted at the edge of the land, it cannot be said that the trees had occupied a substantial portion of the land. Indeed, if at all the trees had occupied any portion, it is only at the edge of the land and the respondent was otherwise entitled to grow other trees or crops in the whole of his remaining land.

16. Now coming to the method to be adopted for valuing fruit bearing tree, the learned District Judge has taken the economic lifespan of the tree as 35 years and has multiplied the net amount derived as income from the tree by capitalising the income using 35 as multiplier. The Apex Court in the case of KERALA STATE ELECTRICITY BOARD Vs. C.P.SIVASANKARA MENON - 2009 AIR SCW388 while referring to the earlier decision in KERALA STATE ELECTRICITY BOARD Vs. LIVISHA AND OTHERS -(2007) 6 SCC792 has held that compensation payable to the land owners based on the yield from the tree ought to have been worked out by applying appropriate multiplier as was done in 14 WP.39979/2013 the case of STATE OF HARYANA Vs. GURCHARAN SINGH AND ANOTHER - 1995 Supp (2) SCC637 and therefore remitted the matter for fresh consideration to

the competent Court in respect of a similar matter arising from the State of Kerala.

17. In KERALA STATE ELECTRICITY BOARD Vs. LIVISHA AND OTHERS - (2007) 6 SCC792 the Apex Court while considering the determination of compensation made based on the Judgment of Five Judges Bench of Kerala High Court in the matter of KOMATH KUMBA AMMA & OTHERS Vs. KERALA STATE ELECTRICITY BOARD - 2000(1) KLT542(FB) wherein it was held that the annuity thereof shall be calculated on the basis of 5% return and fixing the rate of diminution in the market value of the land at 50%, after referring to various Judgments rendered by the High Court of Kerala at different points of time taking different view in the matter, has observed in Paragraph 7 that the amount of compensation payable has to be determined keeping in view the purpose and object of the statute and there cannot be any fixed formula. The Apex Court has pointed out that a fixed formula for determining the amount of compensation although may make the task of the 15 WP.39979/2013 Land Acquisition Officer or the reference court easier but each case has to be decided on its own merit keeping in mind the purpose and object of the Act and the methodology laid down as guiding factor. In paragraph 10 to 12 of the Judgment in Livishas case, the Apex Court has observed as under: line the high voltage electricity 10. The situs of the land, the distance between 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.

11. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case. We may, incidentally, refer to a recent decision of this Court in Land Acquisition Officer Vs. Kamadana Ramakrishna Rao [(2007) 3 SCC526 2007 AIR SCW1145 wherein claim on yield basis has been held to be relevant for determining the amount of compensation payable under the Land Acquisition Act; same principle has been reiterated in Kapur Singh Mistri Vs. Financial Commissioner & Revenue Secretary to Government of Punjab [1995 Supp (2) SCC637, para 4 and Airports Authority of

India Vs. Satyagopal Roy [(2002) 3 SCC527. In Airports Authority [(2002) 34 SCC527 it was held: (SCC p.533, para

14) 4. Hence, in our view, there was no reason for the High Court not to follow the decision rendered by this Court in Gurcharan Singh case [1995 Supp (2) SCC637 and determine the 16 WP.39979/2013 compensation payable to the respondents on the basis of the yield from the trees by applying 8 years multiplier. In this view of the matter, in our view, the High Court committed error apparent in awarding compensation adopting the multiplier of 18. 12. We are, therefore, of the opinion that the High Court should consider the matter afresh on the merit of each matter having regard to the fact situation obtaining therein. The impugned judgments, therefore, cannot be sustained. These are set aside accordingly. The matters are remitted to the High Court for consideration thereon afresh. The appeals are allowed. In the facts and circumstances of the case, there shall be no order as to costs. It is thus evident that multiplier to be adopted will have 18. to be same as multiplier adopted under the provisions of the Land Acquisition Act for determining the value of the trees. As regards the nature and quantum of compensation to which the farmer is entitled, measurement of the land, distance between high voltage electrical line laid over the same, extent of the line and also whether only a small tract of land is used or the line is drawn right through the middle of the land and such other similar factors would be determinative for deciding the quantum of compensation to be awarded. Yet another important observation made by the Apex Court in Paragraph 10 is that, the value of the land would also become relevant factor and in a given case, the owner of land may be deprived of using 17 WP.39979/2013 the land for the purpose for which the same was meant to be used.

19. If the principles laid down in the above Judgments are made applicable to the facts of the present case, it will emerge that the land in question, was used for growing coconut trees and the land is capable of being put to intensive cultivation for growing horticulture crops including for growing toll fruit bearing trees. Thus the best use for which the land can be put to is radically restricted thereby depriving the land owner from utilizing his land to its full potential to realize the maximum income and generate more profit. As is evident from the photographs produced by

the respondent - farmer, the high voltage electrical line has been drawn across the land damaging not only the 14 coconut trees grown at the edge of the land, but also the land on either side of the corridor. Therefore, the corridor consisting of totally 18 meters, 9 meters on either side has to be treated as an area severely affected depriving the land owner of his right to grow trees or luxuriant shrubs. In fact, petitioners have treated this area only as affected area for the purpose of determining the compensation and also for assessing the value of the trees cut and removed. Even as per 18 WP.39979/2013 The Electricity Act, 2003, Section 68 provides for removal of shrubs, trees and other such growth if they are likely to affect overhead power lines. Therefore, the land owners are not entitled to grow any trees under the corridor area as the same will affect the transmission lines. Apart from this, having regard to the fact that the electrical transmission line has been drawn across the land, it will cause damage depriving the farmer of his efficient use of the other portion of the land. Therefore, the said factor also cannot be lost sight of. In the instant case, the learned District Judge has confined the amount of compensation to be awarded to the actual corridor area. Therefore, even proceeding on the said premise if the compensation were to be calculated, as rightly submitted by the counsel for the respondent, the best price payable for the coconut grown and the best yield which can be derived and the resultant income generated from the land ought to be taken for the purpose of determining the compensation.

20. The learned counsel for the petitioners have relied on two Judgments of the Apex Court, wherein it has been observed that multiplier of 8 has to be used while capitalizing the income to arrive at the capital value. But, the learned counsel for the 19 WP.39979/2013 respondent has placed reliance on the Judgment of the Apex Court in the case of SHAIK IMAMBI Vs. SPECIAL DEPUTY COLLECTOR (LAND ACQUISITION) TELUGU GANGA PROJECT disposed of on 02.02.2011 to contend that multiplier of 10 has been used for the purpose of capitalizing the net income to arrive at the market value. It is further pointed out by the learned counsel for the respondent that in the two Judgments relied upon by the learned counsel for the petitioners, the Apex Court has remitted the matter leaving open the question for determination by the Court below and has not expressed any final opinion with regard to the multiplier to be adopted.

21. One thing is certain that the multiplier to be adopted cannot be commensurate with the economic lifespan of the tree as has been done by the learned District Judge. He has used multiplier of 35 and has capitalized the net income to arrive at the amount of compensation payable. This approach is impermissible. In land acquisition cases, the value of the acquired land wherein fruit bearing trees are grown has been determined normally by applying 10 multiplier. The Apex Court in the matter of STATE OF HARYANA Vs. GURCHARAN20WP.39979/2013 SINGH AND ANOTHER - 1995 Supp (2) SCC637 has held that when the market value of agricultural land is determined on the basis of the yield, then necessarily suitable multiplier deserved to be applied to award reasonable compensation. But under no circumstances, the Court should allow the compensation on the basis of the nature of land and as well as fruit bearing tree. In other words, the market value of the land cannot be determined twice over, once on the basis of the value of the land and again on the basis of the yield secured from the fruit bearing tree, which is impermissible. It is further laid down that once compensation is determined on the basis of the value of the land, as distinct from the income, applying suitable multiplier, then the trees would be valued and necessary compensation should be given. In the said case, the Apex Court has ruled that when the market value is determined on the basis of the yield from the tree or a plantation, 8 years multiplier shall be appropriate multiplier. For agricultural land, 12 years multiplier has been held to be suitable multiplier.

22. From a recent decision of the Apex Court in the case of SHAIK IMAMBI Vs. SPECIAL DEPUTY COLLECTOR (LAND21WP.39979/2013 ACQUISITION), TELUGU GANGA PROJECT - (2011) 11 SCC639 it is clear that multiplier of 10 has been applied for determining the market value of the agricultural land including fruit bearing tree. Therefore, the multiplier to be adopted in a case like this cannot be more than 10. The learned District Judge has made a mistake in applying multiplier of 35 in arriving at the value of the fruit bearing tree for the purpose of awarding compensation.

23. Now coming to the income derived by the land owner from the coconut tree, the Senior Assistant Director of Horticulture, Zilla Panchayath, Hiriyr, has certified that the annual average yield of coconut per tree was 103, but the learned District

Judge has taken the yield at 80, which is not borne out from any record. As the land comes under Hiriyur Taluk and the opinion of the Senior Assistant Director of Horticulture, is on record the yield of coconut per tree has to be taken as 103. Insofar as price is concerned, keeping in mind the price of coconut that has been assessed at Rs.8/- and deduction of 50% by the learned District Judge towards cultivation, I am of the view that there is no reason to upset the finding regarding the yield and the price as the same is based 22 WP.39979/2013 on evidence on record. Regarding cost of cultivation and other incidental expenses that the farmer has to incur to realize the said price per coconut, if the same is calculated at 30%, it would be just and appropriate.

24. As regards the diminution value of the land falling within the corridor, the learned District Judge having determined the market value of the land has awarded 50% of the same as diminution value. It cannot be disputed that though the farmer is not capable of growing trees underneath the corridor, he is not totally deprived of utilizing the land for carrying out other agricultural operations. He is entitled to grow other crops, which may not affect the high voltage transmission line. Though the farmer is deprived of the opportunity to utilize the land to its full potential and grow horticulture crops, particularly consisting of trees and other luxurious shrubs, he is capable of utilizing the land. The title of the land continues to vest in him. It is, no doubt, true that his access to the land and use of the same by erecting any pole, shed or any other installation will be restricted. In a 23 WP.39979/2013 case like this where high voltage transmission line is drawn across the land, utilization of the other portion of the land is also affected. Therefore, all these factors have to be taken into consideration before determining the diminution in the land value on account of drawing of high voltage electrical line. If these relevant factors are borne in mind, particularly having regard to the photographs produced and the evidence adduced by the claimant - land owner, I find that 30% of the market value of the area affected shall have to be paid as diminution value of the land to the farmer.

25. The market value of the land has been determined at Rs.2,00,000/- per acre based on the evidence on record, particularly the certificate issued by the Sub Registrar. There is no scope to interfere with the valuation of the market value

made by the learned District Judge. Therefore, the only modification that can be made in awarding the diminution value is that instead of 50% of the market value awarded by the learned District Judge, it has to be calculated at 30%. If so done, the diminution 24 WP.39979/2013 value of the land comes to Rs.42,705/- (Rs.5,000/- per gunta X2847 guntas X30100 =42,705/) 26. Learned District Judge has taken the net value of the coconut at `4/- after deducting the expenses towards cost of cultivation. The evidence on record of the Assistant Director of Horticulture one Smt.Savita shows that price of coconut was `8/- per coconut. The cost of cultivation in respect of fruit bearing trees will be 30%. In fact, as rightly pointed out by the learned counsel for the respondent - landowner, the Apex Court in the case of ASSISTANT COMMISSIONER-CUM-LAND ACQUISITION OFFICER, BELLARY Vs. S.T.POMPANNA SETTY - (2005) 9 SCC662 has held that deduction towards cultivation expenses in respect of grown up fruit bearing trees cannot be 50%. It has also held that appropriate multiplier to be adopted would be 10 and not 15. Similarly, in the case of SHAIK IMAMBI Vs. SPECIAL DEPUTY COLLECTOR (LAND ACQUISITION), TELUGU GANGA PROJECT - (2011)

11) SCC639 the Apex Court has held that valuation of yield from fruit bearing trees would be made by applying multiplier of 10. In paragraph 6, the Apex 25 WP.39979/2013 Court has held that it has been repeatedly laid down that the standard multiplier should be 10; and that in special circumstances based upon specific evidence regarding the nature, standard, condition of the orchard, the Court may apply a higher multiplier of 12 or 13 or a lower multiplier of 8.

27. Keeping in mind the ratio laid down in the above judgment, the multiplier of 10 is required to be taken and if the cost of cultivation is taken at 30%, it can be safely said that net income has to be calculated on the basis of `5/- per coconut giving margin to the cost incurred for cultivation and other expenses. By taking the yield as 103 coconuts and the price of coconut at `5/- and using the multiplier of 10 for 14 coconut trees, if the net value is worked out, it comes to `72,100/- (for 14 trees X103coconuts X10years X `5/- per coconut = `72,100/-). Thus, the loss sustained for cutting 14 coconut trees is worked out at `72,100/-. 26 WP.39979/2013 28. As regards the value of the land, as already stated above, the total extent of land

which is affected (corridor area) is 28.47 guntas. If the diminution value is calculated at 30% of the market value keeping in mind the market value of the land as `2,00,000/- per acre, the same would workout to `1,500/- per gunta multiplied by 28.47, it will come to `42,705/- ($\text{`1,500/- per gunta} \times 28.47 \text{ guntas} = \text{`42,705/-}$). Thus, the respondent - landowner is entitled to the total sum of `1,14,805/- as compensation.

29. The respondent land owner has lost valuable fruit bearing trees. The trees which were yielding substantial income and were the source of daily food for the farmers have been razed to the ground. The amount that is now determined as compensation ought to have been paid on the date the trees were cut. Therefore, the farmer has to be compensated by paying reasonable interest on the amount. 6% interest ordered to be paid by the learned District Judge is on the lower side. 27 WP.39979/2013 30. Though the land owner has not filed any writ petition seeking higher rate of interest, the fact remains that he is supporting the higher compensation awarded by the learned District Judge. As this Court is reducing the amount of compensation by adopting different methods, the contention urged by the learned counsel for the respondent that interest awarded being too low and having regard to the nature of commercial use that the Corporation is utilizing the land by cutting the standing trees and also having due regard to the nature of deprivation of the respondent - farmer who is deprived of the income from the fruit bearing trees and also because he is paid compensation belatedly, he is entitled for payment of reasonable interest.

31. Therefore, keeping in mind the facts and circumstances and the commercial purpose for which the transmission lines are drawn, I find it just and reasonable to award interest at 8% for the delayed payment of the amount of compensation from the date the electrical line was drawn till payment excluding the amount already 28 WP.39979/2013 paid. Thus, interest has to be paid at 8% on the compensation amount.

32. Accordingly, the respondent is entitled for interest at 8% p.a. on `1,14,805/- payable from the date of drawing the electrical line till the payment excluding the amount already paid. Writ Petition is accordingly disposed of.

33. The amount in deposit before this Court shall be permitted to be withdrawn by the landowner to the extent of his entitlement. If the amount deposited is less than the entitlement of the landowner, the balance shall be deposited by the KPTCL. If the amount deposited is more than the entitlement of the landowner, the balance shall be refunded to the KPTCL. PKS Sd/- JUDGE

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