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Andhra High Court

Power Grid Corporation Of India ... vs Patchukoru Appa Rao And Ors. on 10 November 2005

Equivalent citations: 2006 (1) ALT 392

Author: C Ramulu

Bench: C Ramulu

ORDER C.V. Ramulu, J.

1. In this batch of Civil Revision Petitions the short question that falls for consideration is whether the respondent-claimants are entitled for interest on the compensation awarded under Sections 10 and 16 of the Indian Telegraph Act, 1985 read with Section 42 of the Indian Electricity (Supply) Act, 1948?
2. The respondents herein (claimants) filed Original Petitions under Sections 10 and 16 of the Indian Telegraph Act, 1985 read with Section 42 of the Indian Electricity (Supply) Act, 1948 seeking enhanced compensation for cutting the coconut trees for laying of power transmission lines through their fields in the year 1991 being aggrieved by the compensation fixed by the authority at Rs. 1,000/- per tree.
3. It was the contention of the respondent-claimants that they are the absolute owners of various extent of land situated at Thimmarajupeta village, Atchutapuram Mandal of Visakhapatnam district. The raised coconut grove in their lands and all the trees were fruit bearing trees and are aged about 10 years. The petitioners herein undertook laying of power transmission lines in between Rajanagar and Gajuwaka and in execution of the said work, they proposed to lay electrical lines through the fields of the respondents and in the process, the petitioners cut and removed coconut trees in exercise of the powers vested under the Telegraph Act. However, subsequently, the petitioners fixed an amount of Rs. 1,000/- as value of the damage caused in removing each coconut tree and the respondents received the said amount under protest. It was asserted by the respondents herein that from each coconut tree they would get nearly Rs. 500/- per year and for 10 years the usufruct would be Rs. 5,000/- for each tree. Therefore, the respondents estimated the loss in view of the cutting of the coconut trees at Rs. 5,000/- each and sought for payment of compensation. The petitioners herein filed their counter affidavits before the Court below denying the allegations made by the respondents and opposing their claim. After elaborate consideration of the entire evidence on record, the learned District Judge enhanced the compensation to Rs. 1600/- per tree.
4. There is no dispute as to the enhancement of quantum of compensation. However, it is the case of the petitioners that the Court below grossly erred in awarding interest at 9% per annum on the enhanced compensation from the date of petition till the date of realization of the amount. Challenging the awarding of interest by the learned District Judge, this batch of Civil Revision Petitions are filed.
5. Learned counsel for the petitioners contended that in the absence of a statutory provision, no interest could be awarded on the compensation fixed by the authorities or on the enhanced compensation awarded by the Court. The right to interest is a substantive right and unless and until it is contemplated by the enabling Act under which compensation was granted, the question of awarding any interest on the compensation amount does not arise. By invoking Section 34 of the Code of Civil Procedure, interest can be awarded in such like matters. The Court below has erroneously assumed that the interest as is available in cases arising under the Land Acquisition Act, Motor Vehicles Act and other Acts, could also be awarded to the cases arising under Sections 10 and 16 of the Telegraph Act. These are not