

**HIGH COURT OF TRIPURA
AGARTALA**

CRP 45 of 2025

1. NER-II Transmission Ltd. to be represented by its Authorised Representative NER-II Transmission Ltd.

2. The officer-in-charge NER-II Transmission Ltd. having their registered office at:

Unit No. 101, First Floor, Windsor, Village Kole Kalyan Off CST Road, Vidyanagari Marg, Santacruz (East), Mumbai-400098

.....Petitioners

V E R S U S

1) Smt Sumitra Debbarma, W/O Sri Sonatan Debbarma, D/O Sri. Budhurai Debbarma

2) Debananda Debbarma, S/O Sri Budhurai Debbarma,

3) Sri Manoj Debbarma, S/O Sri Budhurai Debbarma

All are residents of BT para, Purba Noagaon, Post Office-Jirania, Police Station – Jirania, Sub-division- Jirania, District-West Tripura.

4) Power Grid Corporation of India Ltd., A government of India enterprise, New Delhi, represented by its chairman cum Managing Director, Head office at B.9, Qutab Institute area, Katwaba Sarai, New Delhi-110016

5) The Regional Manager, Power Grid Corporation of India Ltd., North East Regional Office, Shayamali Bazar, P.O. Kunjaban, 799006, P.S. NCC, District-West Tripura

6) The Dy. General Manager, Transmission Division, 79 Tilla, Agartala, P.S NCC, District- West Tripura

7) Tripura State Electricity Corporation Ltd., A government of Tripura Enterprise Represented by its Chairman cum Managing Director, Head Office at Bhuturia, Banamalipur, Agartala, P.S-East agartala, District- West Tripura

8) The Sub-Divisional Magistrate, Jirania, West Tripura

9) The Member Secretary, Khatangsa RPS, Chintaharan para, Purba Noagaon, P.S. Ranir Bazar, District- West Tripura, pin- 799035

10) Sri Surjya Kumar Debbarma, S/o. Sri Budhurai Debbarma, Resident of Bardhaman, Thakurpara, P.S. Ranir bazaar, P.O. Jirania, Pin-799035, West Tripura

.....Respondents

For Appellant(s) :	Mr. Karun Maheta, Advocate Mr. Kousik Datta, Advocate
For Respondent(s) :	Mr. Kushal Deb, Advocate Mr. RP Singh, Advocate Mr. Agniva Chakraborty, Advocate Mr. Samrat Sarkar, Advocate
Date of hearing :	15.01.2026
Date of pronouncement :	03.02.2026
Whether fit for reporting :	YES.

HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO

JUDGMENT & ORDER

This Revision is filed under Article 227 of the Constitution of India by the petitioner challenging the judgment dated 14.02.2025 by the District Judge, West Tripura District, Agartala (for short 'District Court') in Civil Misc.(J) 01/2022.

The background facts

2. The 1st petitioner is M/S NER-II Transmission Ltd., which is a Government company incorporated in the year 2015.

3. It is a special purpose vehicle with several components comprising the North Eastern Region System Strengthening Scheme-II (Part-B) & V. The project was to strengthen the interconnection between the States of Tripura, Assam and Arunachal Pradesh and to provide an additional source of power to Itanagar and also to provide a strong interconnection between the northern and southern part of the north-east region.

4. The Central Electricity Regulatory Commission through an order dt.27.07.2017 granted transmission license to it to build, own, operate and maintain transmission lines covered under the above scheme and the Ministry of

Power, Government of India had accorded approval to implement the transmission lines under Section 68 of the Electricity Act, 2003.

5. The Ministry of Power, Government of India conferred all powers under Section 164 of the Electricity Act, 2003 which the Telegraph authority possesses on the 1st petitioner for which a notification was published in the Government of India Gazette dt.31.08.2018.

6. As part of the scheme, a 400 KV transmission line from Surjyamaninagar to Purba Kanchanbari was sought to be laid by the 1st petitioner through the lands of the respondent Nos.1 to 3 herein in which there was a rubber plantation. According to the respondent Nos. 1 to 3 the age of the trees at the time of laying of the line was about 10 years.

7. Initially, a notice was served by the staff of the petitioners on the respondent Nos. 1 to 3 on 29.03.2019 stating that their proposed 440KV/132KV transmission line will pass through the land of the respondent Nos. 1 to 3 and the trees belonging to them and their co-sharer standing on the land would be required to be cleared/cut and they would be compensated for their loss at the value assessed by the Revenue Department.

Civil Misc.(J) 01/2022

8. Alleging that inspite of what was mentioned in the notice dated 29.03.2019 no assessment was made by the Revenue Department of the compensation payable to them and the trees were cut and no compensation was paid to them, on 06.04.2022 the respondent Nos. 1 to 3 filed an application District Judge, West Tripura, Agartala under Section 16(3) of the Indian

Telegraph Act, 1885 seeking compensation of Rs.1,10,00,000/- to them and their co-sharers. It was numbered as Civil Misc.(J) 01/2022.

9. In that application, the petitioners herein were impleaded as respondent Nos. 4 & 5.

10. The Power Grid Corporation of India and its officers were impleaded as respondent Nos. 1 to 3, the Tripura State Electricity Corporation Ltd. was impleaded as respondent No.6 and the Sub-Divisional Magistrate, Jirania was added as the respondent No.7.

11. The respondents 1 to 3 contended that that even towers were constructed on the land of the petitioners and their co-sharers and high voltage electric line was extended over their land and garden after cutting the trees for which they are entitled to the above sum of Rs.1,10,00,000/- as compensation.

According to them, it would not be possible to erect multistoried buildings either for residential purpose or for commercial purpose over their land and it is not possible for them to use the land for other plantation, etc. or for any commercial purpose though the land is situated by the side of a pucca village road attached with the Assam-Agartala National Highway 44 and the land in the locality was being used for commercial purpose and a stone crusher factory and a rubber factory were already existing there.

They claimed that they could easily earn Rs.3,00,000/- per month by giving on lease their land for purpose of a resort, factory, plantation, etc. and they could earn atleast Rs.2,00,00,000/- within 10 years but they were deprived of this amount.

According to the respondent Nos.1 to 3 atleast 460 rubber plants were cut down and the Rubber Board had fixed Rs.10,000/- per plant as assessment for the damage of every rubber plant of age 8 to 12 years.

They also alleged that the Tripura State Electricity Corporation Ltd. and the Managing Director thereof had knowledge regarding the laying of overhead electric lines over their land but they did not take any initiative for assessment of the compensation through the Revenue Department by the Government of Tripura.

According to them, the Sub-Divisional Magistrate in an order passed on 26.10.2021 instructed the concerned Tehsildar for assessment of the damage caused to the respondent Nos. 1 to 3 but the Tehsildar on 02.03.2022 denied to make such assessment.

12. The Power Grid Corporation of India filed a written objection to the said application denying any knowledge or connection with the said transmission line involved in the case and made it clear that the said transmission line belongs to the petitioners and they have no connection with the petitioners.

13. Notice was issued by the Court of the District Judge, West Tripura, Agartala on 06.04.2022 to the petitioners and the other respondents.

14. The petitioners were served but they did not appear before the said court and the same was recorded in the docket order dt.20.06.2022 and the matter was adjourned to 15.09.2022 to enable them to file written objections to the application filed by respondents 1 to 3.

15. On 15.09.2022 also the petitioners did not appear before the District Court and the court adjourned the matter to 14.12.2022 for their appearance and for filing of written objection by them.

16. On 14.12.2022 also the petitioners did not appear before the District Court and having noted that they were duly served notice in the case, the court decided to proceed ex-parte against them and the other respondents who were also similarly served but who did not file written objection or engage counsel.

17. On 13.03.2023 the District Judge, framed the following three issues:

“i) Is the application filed by the claimant petitioners U/S 16(3) of the Indian Telegraphic Act, 1885 maintainable in its present form and nature?

ii) Have the respondent extended the high voltage electric line illegally and forcibly over the land of the claimant petitioners along with their other co-sharers without making assessment of damages caused to the claimant petitioners and other co-sharers of the land.

iii) Are the claimant petitioners entitled to get a decree of compensation, as prayed for? If yes, then who shall be liable to make payment of compensation?”

18. The respondent Nos. 1 to 3 filed affidavits of chief examination on 03.06.2023 and they were also cross-examined by the counsel for the Power Grid Corporation of India and their evidence was closed.

19. The court then gave opportunity to the respondents in the case to file their affidavits in chief examination, but the counsel for the Power Grid Corporation of India informed that her clients were not interested to adduce

evidence as they had no connection with the transmission line in question and so the evidence on the side of the respondents was closed.

20. On 27.01.2025 after recording that the case was proceeding ex-parte against the petitioners vide order dt.14.12.2022, arguments of the respondent Nos.1 to 3 and the counsel for the Power Grid Corporation of India were heard at length.

21. On 14.02.2025 the application was allowed holding that the respondent Nos. 1 to 3 and other co-sharers were entitled to compensation of Rs.46,00,000/- for destruction of 460 number of mature rubber trees on their land by the petitioners. It was further held that all the owners of the land are also entitled to get compensation of Rs.18,00,000/- from the petitioners due to loss sustained by them for non-use of the land for any business purpose or residential purpose.

22. Thus, the petitioners were directed to pay compensation of Rs.64,00,000/- only to the respondent Nos. 1 to 3 and other owners of the land within two months failing which it was directed that interest @7.5% per annum be paid to them from the date of filing of the application under Section 16(3) of the Indian Telegraph Act, 1885 i.e. 06.04.2022 till the date of payment of compensation amount.

The instant Revision

23. Challenging the said judgment the petitioners have filed the instant revision under Article 227 of the Constitution of India raising several contentions on merits and they had also filed several documents along with the Revision being Annexures 1 to 9.

24. Counsel for the petitioners sought to contend that the respondent Nos. 1 to 3 have concealed certain material facts and that the District Court had not examined the said aspect. He claimed that the petitioners had prepared trees/crops compensation payment sheet had alleged that compensation amount of Rs.1,41,432/- and Rs.2,58,661/- was paid to the respondent Nos. 1 to 3 through cheques. It is also alleged that assessment of rubber trees was done and rates were determined on the basis of a notification of the revision of rates for damaged crops, etc. issued by the Joint Secretary, Revenue Department, Government of Tripura. It was contended that the District Judge stepped into the shoes of the Telegraph Authority under the Telegraph Act, 1885 while assessing compensation for the loss of trees and did not invite an expert body or established a fact finding commission for real assessment of loss.

25. Other contentions on merits have also been raised.

26. I may point out that counsel for the petitioners offered no explanation as to why :

(i) the petitioners did not enter appearance through counsel before the District Judge to contest the claim of the respondent Nos. 1 to 3; or

(ii) filed an application under Order 9 Rule 7 CPC to set aside the order passed by the District Judge setting them ex-parte; or

(iii) even cross-examine the witnesses adduced by the respondent Nos. 1 to 3 in support of their claim for payment for compensation.

27. The petitioners are not rustic ignorant villagers but are a Government company and its officers who are fully aware of the consequences of not contesting a claim made in the proceeding filed by respondents 1 to 3 for

compensation after receipt of summons in the application filed by the respondent Nos. 1 to 3.

28. As mentioned above, several opportunities had been given by the District Court to them to file written objections to the claim statement made by the respondent Nos. 1 to 3, but after receiving the summons/notices they chose deliberately not to participate in the proceedings in the District Court or adduce any evidence in support of their contentions raised in this Revision or cross-examine the witnesses examined by the respondent Nos. 1 to 3 in the District Court.

29. In the pleading in the Revision also no explanation is offered for this shocking conduct on the part of the petitioners but several allegations against the District Judge have been leveled by them which indicate a highly arrogant attitude coupled with gross negligence on their part by blaming the District Court and the respondent Nos. 1 to 3.

30. The petitioners have sought to file materials in this court for the first time as if the present case is a Writ petition under Article 226 of the Constitution of India without filing any material in the District court.

31. Even if this proceeding were to be an appeal under Section 96 of the CPC still the petitioners would have had to comply with Order 41 Rule 27 CPC; and even viewed from that context, the materials now placed before the court by the petitioners cannot be received as additional evidence to buttress their allegations in the revision.

32. I have called for the record of the case from the District Court and perused the same.

33. In their respective depositions, PWs 1 to 3 examined by the respondent Nos. 1 to 3 categorically stated that their rubber plants were aged about 10/11 years by the date they were cut and the total number of rubber plants which were cut by the petitioners was atleast 460. According to their pleading, the Rubber Board had assessed damage in respect of such rubber plants of age 8-12 years @ Rs.10,000/- per plant. This is also reiterated in their evidence which was not subjected to cross-examination by the petitioners.

34. Therefore, it is not open to the petitioners to now find fault with the said rate adopted by the District Judge in awarding compensation to the respondent Nos. 1 to 3 towards the loss caused to them by cutting of 460 rubber trees by the petitioners for laying the overhead high voltage electric line.

35. However, as regards the claim of the respondent Nos. 1 to 3 that they could have earned Rs.3,00,000/- per month if they had given the said land on lease for commercial purpose such as construction of a commercial resort, plantation, factory is concerned, the District Judge having noticed that the respondent Nos. 1 to 3 did not submit any document regarding present market value of their land in support of their claim still awarded Rs.15,000/- per month i.e. Rs.18,00,000/- for a period of 10 years as compensation for deprival of use of their land for commercial purpose by observing that the land had high potential because it was situated adjacent to the National Highway.

36. In my opinion, the claim of loss of income from commercial exploitation of the land is speculative and could not have been entertained by the

District Court while exercising jurisdiction under Section 164 of Electricity Act,2003 read with Section 16 (3) of the Telegraph Act,1885.

37. It is settled law that in exercise of jurisdiction under Article 227 of the Constitution of India the High Court is not vested with any unlimited prerogative to correct all kinds of wrong decisions made within the limit of the jurisdiction of the subordinate courts or tribunals and it can only interfere in cases of severe dereliction of duty and flagrant violation of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. The High Court cannot exercise its power as an appellate court or substitute its own judgment in case of that of the Subordinate court to correct an error which is not apparent on the face of the record and it cannot set aside or ignore the findings of fact of the inferior court or tribunal normally. It can do so only if there is no evidence at all to justify or the findings are perverse and no reasonable person can possibly come to a conclusion which the court or tribunal had come to. **[M/S. Estralla Rubber vs Dass Estate (P) Ltd., (2001) 8 SCC 97, Garment Craft vs Prakash Chand Goel (2022) 4 SCC 181].**

38. Applying the above parameters, the award of compensation @ Rs.10,000/- per rubber plant for 460 rubber plants which have been cut by the petitioners i.e. 46,00,000/- does not warrant interference by this court because the petitioner had not chosen to file written objections or lead evidence or cross examine the witnesses of the respondents 1 to 3. The District Judge had considered the evidence adduced by the respondents 1 to 3 and has come to a correct conclusion that Rs.46,00,000/- can be granted as compensation to respondents 1 to 3 towards loss of damage of rubber trees.

39. But the award of Rs.15,000/- per month for 10 years, i.e. Rs.18,00,000/- for denial of use of the respondent Nos. 1 to 3's land for commercial purpose cannot be sustained on ground that it is outside the scope of jurisdiction of the District Court while acting under Section 164 of Electricity Act,2003 read with Section 16(3) of the Telegraph Act,1885.

40. Therefore, this Revision is partly allowed and the order dt. 14.02.2025 in Civil Misc. (J) 01/2022 is modified and to the extent the District Judge had granted Rs.18,00,000/- to the respondent Nos. 3 to 5, the said portion is set aside; but to the extent the District Judge awarded Rs.46,00,000/- for destruction of 460 numbers of matured rubber trees on the land of the respondent Nos. 1 to 3, the judgment is sustained along with the award of interest @ 7.5 % from 06.04.2022 till the date of payment of compensation money to the respondent Nos. 1 to 3.

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

(M.S. RAMACHANDRA RAO), CJ