



**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

**CWP No. 3146/2023
Decided on: 12.03.2026**

M/s JP Power Grid Limited & Anr.Petitioners

Versus

Sees Ram & Ors.Respondents.

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Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Narender Sharma, Advocate.

For the respondents: Mr. Dibender Ghosh, Advocate.

Jyotsna Rewal Dua, J.

Learned Additional District Judge allowed the petition filed by the respondents under Section 16(3) of the Indian Telegraph Act, 1885 and held them entitled to compensation to the tune of Rs.2,66,906/- along with interest @9% p.a. from the date of filing of the petition till the recovery of the entire amount. Petitioner-Company feels aggrieved hence has invoked the jurisdiction under Articles 226 & 227 of the Constitution of India.

2. Heard learned counsel for the parties and considered the case file.

¹ *Whether reporters of the local papers may be allowed to see the judgment? yes*



3. The petitioners-company in the year 2009 erected transmission tower and also laid transmission lines over Khasra No. 801, measuring 0-25-24 hectares situated at Mauja Thanari, Pargana and Tehsil Kotkhai. In this process, damage was caused to the apple trees and crops standing over the aforesaid land parcel that belonged to the present respondents.

Acknowledging the damage caused on account of erection of tower and transmission lines, the petitioners in all paid a sum of Rs.2,08,126/- to the respondents. Record shows that respondents received the amount of Rs.2,08,126/- under protest. They filed a petition under Section 16(3) of the Indian Telegraph Act seeking compensation of Rs.55 lakhs along with interest. Petitioners opposed the claim. Parties led their evidence in support of their respective stands. The claim was allowed by the learned Additional District Judge to the extent of Rs.2,66,906/- with interest @9% per annum.

4. It is well settled that in exercise of jurisdiction under Article 226 of the Constitution of India, the High Court cannot reappreciate evidence and arrive at finding of facts unless the authorities below had either exceeded the jurisdiction or acted perversely. Reference in this regard can be made to the judgment



passed by the Hon'ble Apex Court in **Ajay Singh Vs. Khacheru &**

Ors²: -

“16. It is a well-established principle that the High Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot reappreciate the evidence and arrive at a finding of facts unless the authorities below had either exceeded its jurisdiction or acted perversely.

17. On the said settled proposition of law, we must make reference to the judgment of this Court in **Chandavarkar Sita Ratna Rao v. Ashalata S. Guram**³. The relevant portion thereof reads as under:

“16. ... It is well settled that the High Court can set aside or ignore the findings of fact of an appropriate court if there was no evidence to justify such a conclusion and if no reasonable person could possibly have come to the conclusion which the courts below have come or in other words a finding which was perverse in law. This principle is well settled. In *D.N. Banerji v. P.R. Mukherjee* [(1952) 2 SCC 619] it was laid down by this court that unless there was any grave miscarriage of justice or flagrant violation of law calling for intervention it was not for the High Court under Articles 226 and 227 of the Constitution to interfere. If there is evidence on record on which a finding can be arrived at and if the court has not misdirected itself either on law or on fact, then in exercise of the power under Article 226 or Article 227 of the Constitution, the High Court should refrain from interfering with such findings made by the appropriate authorities. ...”

18. The above said proposition of law was reiterated in **Shamshad Ahmad v. Tilak Raj Bajaj**⁴, wherein it was observed that:

² (2025) 3 SCC 266

³ (1986) 4 SCC 447

⁴ (2008) 9 SCC 1



“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappraise, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law.”

Respondents' case had been that 20 apple trees as also the crop standing over their land parcel had been damaged on account of construction of transmission tower and laying down of transmission lines. Respondents' stand was vindicated by the Field Kanungo (PW-3). He proved his report as Ext. PW-3/A, wherein he confirmed complete damage caused to 20 apple trees as also damage to the crops on account of laying down of transmission lines and the tower by the petitioners-company. The assessment of the damage to the extent of Rs.4,75,032/- has been proved by the expert i.e. retired Deputy Director Horticulture, who appeared as PW-2. In his report (Ext. PW-2/A), he has assessed the damage caused to 12 apple trees aged about 10 years as also 8 apple trees aged about 8 years.



The main contention of learned counsel for the petitioners-company has been that the respondents had accepted the compensation of Rs.2,08,126/- towards damage caused to their 20 apple trees. After accepting the same, the respondents cannot be permitted to re-agitate the issue of compensation. This contention is to be outrightly rejected as the record reflects acceptance of Rs.2,08,126/- by the respondents but under protest.

The next contention advanced for the petitioners-company is that the 20 apple trees in question had not been completely damaged, only partial damage was caused to them. This argument is also devoid of merit. The report (Ext. PW-3/A) of the Field Kanungo is categorical that the damaged apple trees had not given any yield whatsoever. The obvious implication is that there is complete loss of 20 apple trees. This is also confirmed by the report of the subject expert (Ex. PW-2/A).

Learned counsel for the petitioners raised a faint submission that the subject expert produced by the respondents, i.e. PW-2, had not prepared the report after inspecting the spot. However, no cogent evidence has been led by the petitioners to disprove the expert report (Ex. PW-2/A) or to show that it was not prepared at the spot or that the age of the trees was wrongly mentioned therein or that the extent of the damage was wrongly stated therein. The alleged inconsistency with respect to the age of the trees and the



extent of damage in the report (Ex. PW-2/A) vis-à-vis the statement of respondent No.2 as PW-1 and the report of the Field Kanungo (Ex. PW-3/A) are no-where to be seen. The statements & reports are actually in conformity with each other. Respondent No.2, a farmer has stated that the age of the apple trees lost in the transmission project of the petitioners was 10–12 years. The subject expert (PW-2) has put the age of the damaged 20 apple trees between 8–10 years on scientific basis. There is no contradiction as such. Further the petitioners did not lead any evidence of an expert etc. to disprove the case set up by the respondents.

For the aforesaid reasons, I do not find any reason to interfere with the award passed by the learned Additional District Judge, Shimla holding that the respondents were entitled to the balance amount of compensation i.e. Rs.4,75,032/- (as assessed by PW-2) – Rs.2,08,126/- (already received by the respondents) = Rs.2,66,906/- along with interest @9% per annum from the date of filing of the petition. Accordingly, this petition being devoid of merit, is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

12th March, 2026_(rohit)