

**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

**O.P.Nos.32 of 2017, 42 of 2017, 43 of 2017, 44 of 2017 and 45 of 2017**  
**Date: 20-01-2018**

Present  
**Sri Justice G. Bhavani Prasad, Chairman**  
**Dr. P. Raghu, Member**  
**Sri P. Rama Mohan, Member**

**O.P.No.32 of 2017**

**Between:**

Puchchakayala Venkata Reddy, S/o. Madhava Reddy,  
Narasimharavupalem Post,  
Via Chanabanda, Chatrayi Mandal,  
Krishna District – 521 214.

... Petitioner

**AND**

1. The Chairman & Managing Director,  
APTRANSCO, Vidyut Soudha, Erramanzil,  
Khairathabad, Hyderabad – 500 082.
2. Chief Engineer 400 kV Lines,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.
3. Asst. Executive Engineer 400 kV Lines,  
L & SS, Sub Division – III, APTRANSCO 111  
TRANSCO Nilayam, Vijayawada – 4
4. The District Collector & Magistrate,  
Krishna District, Patamata, Vijayawada – 520010.

... Respondents

**O.P.No.42 of 2017**

**Between:**

Puchakayala Buchi Reddy, S/o. P. Sita Reddy,  
Narasimharaopalem Post, Via Chanabanda,  
Chatrayi Mandal, Krishna District – 521 214.

... Petitioner

**AND**

1. The Chairman & Managing Director,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.
2. Chief Engineer 400 kV Lines,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

3. Asst. Executive Engineer 400 kV Lines,  
L & SS, Sub Division – III, APTRANSCO 111  
TRANSCO Nilayam, Vijayawada–4

4. The District Collector & Magistrate,  
Krishna District, Patamata, Vijayawada – 520010.

... Respondents

**O.P.No.43 of 2017**

**Between:**

P. Chenna Reddy, S/o. P. Venkatrami Reddy,  
Narasimharaopalem Post, Chatrayi Mandal,  
Krishna District – 521 214.

... Petitioner

**AND**

1. The Chairman & Managing Director,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

2. Chief Engineer 400 kV Lines,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

3. Asst. Executive Engineer 400 kV Lines,  
L & SS, Sub Division – III, APTRANSCO 111  
TRANSCO Nilayam, Vijayawada – 4

4. The District Collector & Magistrate,  
Krishna District, Patamata, Vijayawada – 520010.

... Respondents

**O.P.No.44 of 2017**

**Between:**

Mandapati Satyanarayana Reddy, S/o. M. Rami Reddy,  
Narasimharaopalem Post, Chatrayi Mandal,  
Krishna District – 521 214.

... Petitioner

**AND**

1. The Chairman & Managing Director,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

2. Chief Engineer 400 kV Lines,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

3. Asst. Executive Engineer 400 kV Lines,  
L & SS, Sub Division – III, APTRANSCO 111  
TRANSCO Nilayam, Vijayawada – 4

4. The District Collector & Magistrate,  
Krishna District, Patamata, Vijayawada – 520 010. .... Respondents

**O.P.No.45 of 2017**

**Between:**

Midde Chennaiah, S/o. Mallaiah,  
Narasimharaopalem Post,  
Via Chanabanda, Chatrayi Mandal,  
Krishna District – 521 214.

... Petitioner

**AND**

1. The Chairman & Managing Director,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

2. Chief Engineer 400 kV Lines,  
APTRANSCO, Vidyut Soudha, Erramanzil  
Khairathabad, Hyderabad – 500 082.

3. Asst. Executive Engineer 400 kV Lines,  
L & SS, Sub Division – III, APTRANSCO 111  
TRANSCO Nilayam, Vijayawada – 4

4. The District Collector & Magistrate,  
Krishna District, Patamata, Vijayawada – 520 010 .... Respondents

These Original Petitions have come up for hearing finally on 23-12-2017, 06-01-2018, 06-01-2018, 06-01-2018 & 06-01-2018 respectively in the presence of Sri P. Changal Reddy, learned counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the AP Transco / utilities. After carefully considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

**COMMON ORDER**

Petitions seeking compensation in accordance with the Andhra Pradesh Works of Licensees Rules, 2007.

2. The petitioner's case in O.P.No.32 of 2017 is that the AP Transco, the State Transmission Utility and the Transmission Licensee issued a notice dated 26-06-2014 to the petitioner informing that a 400 KV QMDC line being constructed by it will be passing through the land of the petitioner and that under the Indian Telegraph Act, 1885, Sections 10 to 19, trees and crops will be removed by them and they will be handed over to the petitioner or auctioned and the compensation will be paid as per the value fixed by the Revenue Department. The notice neither sought for the consent of the petitioner nor offered any compensation for the diminution of the land value or loss of crops. The petitioner received two valuation statements on 05-08-2015 containing the particulars of the damage in Survey Nos.1428 and 1429 Narasimharaopalem and Survey Nos.1422/1 and 1436/1A of Narasimharaopalem, fixing the compensation of Rs.1,28,000/- each. The petitioner was paid the same on 06-11-2015. In regard to 22 Mango trees and crop compensation, Rs.89,288/- was received on 25-12-2015 and Rs.78,000/- was received on 02-03-2016. The petitioner was paid compensation for two crops only, as against his entitlement for three crops, which he was raising with bore well water. Against the Assistant Executive Engineer, Vijayawada fixing damaged trees as seventeen only, in his letter dated 04-04-2016, the Horticulture Officer, Vissannapeta fixed the damaged Mango trees at twenty three, in his reference dated 09-04-2016, for which no compensation was paid. The land of the petitioner under Tower No.59/7, an extent of Ac.7-20 cents was completely fragmented and similarly, under Tower No.59/6, an extent of Ac.1-71 cents was fragmented. Each tower measured 600 square yards and the lines were drawn across the land for 340 meters length and 50 meters width. The lands became totally valueless, while earlier when the water came from the Nagarjuna Sagar canal and bore wells were

dug with electricity connections, three crops namely Chillies, Cotton and Maize were cultivated every year. The lands are nearer to Gannavaram airport connected to Amaravati, the capital of Andhra Pradesh and a technology park is established in the area. The land with great developmental value is above Rs.20 lakhs per acre in the market and the petitioner is entitled to a compensation of Rs.74 lakhs towards the land, diminution of land value under lines for 3.7 acres and loss of bore well with electricity service. The representations of the petitioner for legal compensation were in vain and the District Collector, Krishna fixed a compensation of Rs.1,28,000/- per each tower of Ac.0-12 cents, vide his Proceedings dated 05-08-2015, apart from compensation for trees as per the Revenue and Horticulture Officials' decision. The Collector merely approved the proposal of the Revenue Divisional Officer, Nuzvid and did not comply with the Andhra Pradesh Works of Licensees Rules, 2007. He considered the orders of the District Collectors, East and West Godavari of the year 2015, but not orders of the District Collector, Nellore. The proceedings of the District Collector, Krishna are in violation of the principles laid down by the Hon'ble Supreme Court and the Instructions of the Ministry of Power, Government of India. The petitioner, therefore, sought for an additional compensation of Rs.1,76,000/-, compensation for the entire property at Rs.20 lakhs per acre, compensation for the number of trees approved by the Horticulture Officer and the loss of the tube well and any other directions as deemed fit and proper.

**3.** The case of the petitioner in O.P.No.42 of 2017 is identical relating to Tower No.59/1 & Tower No.59/2 in S.No.1504 of Narasimharaopalem. He claimed to have received Rs.64,000/- and Rs.32,000/- respectively for the damage to Ac.1-50 cents.

**4.** The case of the petitioner in O.P.No.43 of 2017 is also similar relating to S.No.1 and 2 of Narasimharaopalem in which the loss of land amounted to Ac.2-00

cents. He received a compensation of Rs.4,48,938/- for crop/tree losses and a land compensation of Rs.32,000/-.

5. The case of the petitioner in O.P.No.44 of 2017 has a similar claim relating to S.No.2-1A of an extent of Ac.7-75 cents in which two legs of Tower No.59/8 were located. He received a compensation of Rs.4,39,792/- for the removal of the trees, damage to the standing crop and two tower legs.

6. The case of the petitioner in O.P.No.45 of 2017 made an identical claim as a lessee in respect of loss of Ac.0-70 cents out of Ac.2-00 cents between Tower No.59/7 and 59/8. He received Rs.34,000/- and a balance of Rs.49,000/- was due.

7. The petitioners in O.P.Nos.42 to 45 of 2017 also contended that their consent under Rule 3 (1) (a) of the Andhra Pradesh Works of Licensees Rules, 2007 was not taken by the licensee and hence the reference to the Collector, Krishna District was a procedural irregularity. The report of the Revenue Divisional Officer, Nuzvid was not based on local market value. The procedural safeguards and the right to property were violated and the order of the Hon'ble High Court of Kerala in C.R.P.No.432 of 2010 dated 26-05-2014 laying down the principles of compensation for diminution of land value was relied on.

8. The 4<sup>th</sup> respondent namely the District Collector, Krishna did not appear or participate in the proceedings in all the five Original Petitions and the respondents 1 to 3 in O.P.No.32 of 2017 in their counter stated that the proposal was published in the newspapers on 28-02-2013 for which, no objections were received and the 400 KV line was erected and commissioned in full shape on 20-10-2016. Notices were given before Towers 59/6 and 59/7 were installed in the land of the petitioner and in

the absence of any objection and with consent, the towers were commenced on 08-11-2015 and 11-11-2015 and completed on 14-11-2015 and 19-11-2015 respectively. The petitioner signed in the specified forms in token of the acceptance of the compensation proposed. The Collector, Krishna District fixed the compensation, which was paid to the petitioner and the damaged trees were seventeen Mango trees only. The compensation was paid as per the proceedings of the Collector, Krishna District except Rs.1,46,727/-, which was sent by registered post through cheque. The compensation was paid to the Mango trees as per the proceedings of the Collector, Krishna District. The compensation paid was in compliance of the Works of Licensees Rules, 2007. Hence, the respondents prayed for dismissal of the revision petition with costs.

**9.** In the counters of respondents 1 to 3 in O.P.Nos.42 to 45 of 2017, they referred to W.P.No.2031 of 2015 in which the Hon'ble High Court of Judicature at Hyderabad directed determination and payment of compensation to the petitioners therein in accordance with law within a period of ninety days. They claimed that by the time, the said order has come, the Collector, Krishna District already passed orders in proceedings dated 05-08-2015, which are under consideration herein. They further claimed that compensation was paid to the farmers as per the orders of the Collector and hence, the compensation paid was in compliance of the statutory rules. The petitioner in O.P.No.42 of 2017 was paid Rs.64,000/- + Rs.32,000/- = Rs.96,000/- in total towards land value and crop compensation of Rs.17,497 and Rs.73,587/- was also paid. Petitioner in O.P.No.43 of 2017 was paid Rs.64,000/- towards compensation for land and Rs.6,936/- per Mango tree for A grade. The petitioner in O.P.No.44 of 2017 was paid for the tower location and he was also paid Rs.6,936/- per Mango tree for A grade. The petitioner in O.P.No.45 of 2017 was

paid Rs.34,000/- and Rs.50,232/- respectively on 19-03-2016 and 16-10-2017. Hence, respondents 1 to 3 desired the petitions to fail.

**10.** The point for consideration is to what relief the petitioners are entitled to.

**11.** Section 67 of the Electricity Act, 2003 in sub-section (2) (e) provides for appropriate Government making rules for determination and payment of compensation or rent to the persons affected by the works of the licensees. Section 67 (3) of the Electricity Act, 2003 provides that a licensee shall cause as little damage, detriment and inconvenience as may be in exercise of its powers under Section 67 or the Rules made there under and shall make full compensation for any damage, detriment or inconvenience caused by him or any one employed by him. Section 68 (6) of the Electricity Act, 2003 provides for award of reasonable compensation to the person interested in any tree in existence before the placing of the overhead line, which can be recovered from the licensee. While appropriate Government may confer the powers of a Telegraph Authority under the Indian Telegraph Act, 1885 on any public officer or licensee or supplier of electricity for placing of electric lines or electrical plant for transmission of electricity, such powers of Telegraph Authority under Section 164 of the Electricity Act, 2003 conferred by the appropriate Government shall have to be so exercised as to be in consonance with the determination and payment of compensation under Section 67 (2) (e) and Section 68 (6) of the Electricity Act, 2003 in tune with the accepted principle that all the provisions of a statute must be read together and given effect to.

**12.** The Government of India made Works of Licensees Rules, 2006 under Section 67 (2), while the Government of Andhra Pradesh made the Andhra Pradesh Works of Licensees Rules, 2007 under Section 67 (2) read with Section 180 (2) (b)



of the Electricity Act, 2003. Both the Rules almost are verbatim replicas of each other in their content and substance. Rule 3 of the State Rules which authorizes the licensee to carryout works, states in sub-rule (4) that the District Magistrate authorized by the State Government in this behalf shall, after considering the representations of the concerned persons, fix the amount of compensation or of annual rent or both, which should in his opinion be paid by the licensee to the owner or occupier of a building or land on which any works have been carried out. Full compensation for any loss or damage by reason of carrying out any works is the underlying theme under all the Rules and Rule 13 provides for determination and payment of compensation to affected persons for any loss or damage incurred due to any such works or non-compliance with the Rules. The determination shall be by the District Magistrate authorized by the State Government in this behalf, if not mutually agreed between the parties and any difference or dispute arising as to the amount of compensation determined by the District Magistrate, shall be determined by the State Commission. The Government of Andhra Pradesh appointed the District Collector to exercise the powers and perform the functions and duties under the Andhra Pradesh Works of Licensees Rules, 2007 and directed that any works of licensees in the State of Andhra Pradesh shall have to be taken up and executed in strict compliance of the said statutory Rules as per G.O.Ms.No.6, Energy, Infrastructure & Investment (Power-III) Department, dated 06-03-2017. The guidelines for payment of compensation towards damages in regard to Right of Way for transmission lines issued by the Ministry of Power, Government of India on 15-10-2015 were initially not accepted by the State of Andhra Pradesh regarding the compensation for the corridor while it opined that 100% land value should be paid for the tower base. However, in G.O.Rt.No.83, Energy, Infrastructure & Investment

(Pr.II.A2) Department, dated 20-06-2017, the Government of Andhra Pradesh laid down the guidelines for payment of compensation towards diminution of land value in the width of the Right of Way Corridor with effect from the date of Government Orders.

**13.** While this is the statutory background, the petitioners relied on *The Kerala State Electricity Board Vs Livisha (2007) Insc 650* wherein the Hon'ble Supreme Court has laid down that the purpose and object of the Act and the methodology laid down therein should be the guiding factor for determining the amount of compensation. The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon, whether the high voltage line passes over a small track of land or through the middle of the land, the value of the land, the loss of substantive right to use the property and similar relevant factors were held by the Hon'ble Supreme Court to be determinative of the matter. The proceedings of the Collector, Krishna District in Rc.No.H7/1767/2015 dated 08-05-2015, which are the subject matter of the present consideration referred to the proposals of the Revenue Divisional Officer, Nuzvid in great detail including the meetings with the aggrieved farmers, compensation fixed by the Collector, West Godavari and the Collector, East Godavari concerning the transmission scheme, his further proposals based on the later Government Orders etc., and ultimately the Collector, Krishna District stated in his proceedings that the proposals are considered and one time compensation was fixed as proposed by the Revenue Divisional Officer, Nuzvid. The fixing of compensation is a verbatim reproduction of the recommendation of the Revenue Divisional Officer, Nuzvid. The Collector, Krishna District obviously did not make any effort to apply his mind to the representations / objections of the aggrieved farmers or the comparability between

the properties covered by the orders of the Collectors, West and East Godavari Districts and the proposals of the Revenue Divisional Officer, Nuzvid or the individual factors or facts and circumstances relating to the loss of land or land use or trees of each of these farmers of the various villages in Krishna District through which this 400 KV electric line is passing. Section 67 (2) (e) or Section 68 (6) do not appear to contemplate such a composite consideration but each person affected / each person interested has the right to have the reasonable compensation to which he is entitled fixed in accordance with the statute and the statutory Rules. Rule 3 sub-rule (4) of the Andhra Pradesh Works of Licensees Rules, 2007 specifically referred to the amount of compensation or annual rent which should **“in the opinion of the District Magistrate authorized by the State Government in this behalf”** be paid by the licensee to the owner or occupier of a building or a land. The language of the Rules is unambiguous. Each owner / occupier of a building / land is entitled to have such a reasonable compensation fixed and paid. Rule 13 makes full compensation determinable by the District Magistrate, authorized by the State Government in this behalf and the word **‘determination’** obviously implies a reasoned judicious determination on merits in accordance with law by the authorized District Magistrate himself but not a mere adaptation of a subordinate officer’s proposal by the District Collector.

**14.** The Andhra Pradesh Works of Licensees Rules, 2007 make an order under Rule 3 (4) revisable by the Commission. Rule 13 (2) provides for any difference or dispute as to the amount of compensation determined by the District Magistrate being determinable by the Commission. The power conferred on the State Regulatory Commission by these Rules is more or less akin to the powers conferred on an Appellate Court under order XLI of the Code of Civil Procedure, 1908 or a

Revisional Court under Section 115 of the Code of Civil Procedure, 1908. An order can be made as the Revisional Court thinks fit to correct any errors of jurisdiction committed by the Sub-ordinate Court under Section 115. An Appellate Court can under Order XLI Rule 23 of the Code of Civil Procedure, 1908 remand a case to the Trial Court, if the disposal was on a preliminary point and if the disposal was otherwise than on a preliminary point, the Appellate Court can remand the case to the Trial Court under Order XLI Rule 23-A of the Code of Civil Procedure, 1908, if it considers a re-trial to be necessary.

**15.** The order of the Collector, Krishna District under consideration herein clearly falls within that limited class of cases, where the matters should be remanded for re-trial. The petitioners have filed various other documents and referred to various other aspects relating to the reasonable compensation to which they are entitled, which are controverted by the respondents, but any probe into those documents or questions in controversy, is not appropriate now in these proceedings, as the matters have go back to the Collector, Krishna District for being dealt with in accordance with the statute and the statutory Rules. The exercise of quasi-judicial jurisdiction by the Collector, Krishna District cannot be through a faithful reproduction of what all the Revenue Divisional Officer, Nuzvid has stated or through a generalization of the quantum of compensation for all lands / trees under the whole transmission line passing through a number of villages / districts. The failure of the Collector, Krishna District to form an opinion of his own under Rule 3 (4) and to determine full compensation under Rule 13 (1) in his own best judgment on appreciation and evaluation of the material placed before him independently led to the failure of the Collector, Krishna District exercising a jurisdiction vested in him in accordance with law and consequently, the matters have to be remitted back to

him for being decided in accordance with the statute and the statutory Rules. Any determination of the amount of full and reasonable compensation by the Commission itself in these proceedings will deprive the petitioners of the opportunity of approaching the State Commission against any wrong determination by the Collector, Krishna District and therefore, the matter has to be in all propriety remanded to the original authority in the interests of justice and fair play.

**16.** The judgment of the Hon'ble High Court of Judicature at Hyderabad in W.P.No.2031 of 2015 and batch clearly shows that the official respondents therein undertook to pay the compensation, if any, payable to the petitioners therein, due to which the Hon'ble High Court directed determination and payment of compensation in accordance with law. Even before the common order dated 07-08-2015 was rendered by the Hon'ble High Court, the Collector, Krishna District was claimed to have issued the proceedings in question herein on 05-08-2015, which the respondents 1 to 3 seek to construe as fixing the right compensation. As already stated above, the proceedings in question without following statutory rules and without discharging the duty of the Collector prescribed by those rules cannot be considered to be answering the description of determining the compensation in accordance with law. The order of the Collector in question can also therefore be considered as violation of the orders of the Hon'ble High Court in W.P.No.2031 of 2015 and batch and to be unsustainable for that reason.

**17.** The Petitioners have already received compensation as per the orders of the Collector, Krishna District and any determination of compensation on remand can practically be considered to be possibly not leading to any lesser quantum. While the petitioners can therefore retain whatever compensation was received, subject to

the final orders that will be passed in the matter, any redetermination of the compensation as per this order of remand shall take into consideration and give credit to the compensation already paid. If such redetermination of compensation were to be more than what has already been paid, the licensee should be directed to pay the balance only.

**18.** Therefore, the matter is accordingly remitted back to the Collector, Krishna District for reconsideration of the subject matter of his proceedings in Rc.No.H7/1767/2015 dated 05-08-2015 and redetermination of the reasonable and full compensation to which each of the petitioners is entitled by reason of the works of the licensee, in accordance with the Andhra Pradesh Works of Licensees Rules, 2007.

**19.** The Original Petitions are ordered accordingly. No costs.

This common order is corrected and signed on this the **20<sup>th</sup> day of January, 2018.**

**Sd/-**  
**P. Rama Mohan**  
Member

**Sd/-**  
**Dr. P. Raghu**  
Member

**Sd/-**  
**Justice G. Bhavani Prasad**  
Chairman