

Before

## UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 25 of 2020

**In the matter of:**

Revision of Order dated 23.07.2020 passed by the District Magistrate, Haridwar, in the matter of payment of compensation of Rs. 2,35,549/- for damage to trees and Rs. 55,080/- for use of land ignoring the mandate of law as enshrined in works of Licensee Rules 2006.

**In the matter of:**

1. Shri Hitler Saini, S/o Late Shri Satish Kumar,
2. Shri Ajay Saini S/o Late Shri Satish Kumar
3. Shri Rajkumar S/o Late Shri Satish Kumar
4. Shri Vishwadeep S/o Late Shri Satish Kumar
5. Smt Vedwati W/o Late Shri Satish Kumar
6. Smt Setho Saini W/o Late Shri Satish Kumar

... Petitioner(s)

AND

**In the matter of:**

1. The Executive Engineer, Power Transmission Corporation of Uttarakhand Ltd.,  
220 kV Line Piran Kaliyar, Office, 26, Civil Line, Roorkee.
2. The District Magistrate, Haridwar.

... Respondent(s)

**Coram**

**Shri D.P. Gairola, Member (Law)**

**Shri M.K.Jain, Member (Technical)**

**Date of Hearing November 10, 2020**

**Date of Order: December 01, 2020**

**ORDER**

The Revisionists have preferred the present revision under Rule 3 of the Works of Licensee Rules 2006 (hereinafter referred to as "the 2006 Rules") against the revision of order dated 23.07.2020 passed by the District Magistrate, Haridwar (hereinafter referred to as "the Respondent No. 2" or "District Magistrate") by which the learned

District Magistrate awarded a sum of Rs. 2,35,549/- for damage to trees and Rs. 55,080/- for use of land by Power Transmission Corporation of Uttarakhand (hereinafter referred to as “PTCUL” or “Licensee”) for undertaking works under the Electricity Act, 2003.

## **2. Background**

- 2.1 A Revision Petition dated 22.09.2020 was filed by Sh. Hitler Saini & Ors. under Rule 3 of the Works of Licensee Rules 2006 against the order dated 23.07.2020 passed by the District Magistrate, Haridwar, in the matter of payment of compensation of Rs. 2,35,549/- for damage to trees and Rs. 55,080/- for use of land by Power Transmission Corporation of Uttarakhand for laying of LILO of 132 kV Bhagwanpur-Chudiyala transmission line at 220 kV Pirankaliyar S/s.
- 2.2 The Licensee is a Power Transmission Company authorized to undertake power transmission business in Uttarakhand under the provisions of the Electricity Act, 2003. The Licensee is constructing a 220/132 kV sub-station at Piran Kaliyar (Imlikhera) and is laying down a 9.5 kilometer LILO of 132 kV Bhagwanpur-Chudiyala transmission line at 220 kV Pirankaliyar S/s and accordingly, has proposed to install 32 towers for the same.
- 2.3 The Petitioners in their Petition have submitted that the proposed 132 kV LILO line is passing through their land having khata no. 324, khasra no. 560, and khata no. 331, khasra no. 717 situated in village Hallumajara, Tehsil Bhagwanpur, District Haridwar which is an agricultural land and the Petitioners are having title of Bhumidar with transferable rights and the land is being used for agricultural purpose having popular and other trees standing by at the said plots.
- 2.4 In the matter, the Petitioners earlier had approached the Hon’ble High Court of Uttarakhand seeking compensation from the Licensee for the use of their land by it under Writ Petition no. 1244 of 2018 which was dismissed by the Hon’ble Court vide order dated 10.04.2019 on the ground that provisions of the Indian Telegraph Act, 1885 (the Telegraph Act) are applicable and thus Revisionists should approach the appropriate forum as provided under Section 16(3) of the Telegraph Act. However, the Petitioners filed Special Appeal no. 568 of 2019 before the Division Bench of the Hon’ble Court on the ground that since the enactment of

Electricity Act, 2003 the provisions of the said Act shall prevail under which the Works of Licensees Rules, 2006 have been enacted. The said special appeal was also dismissed by the Hon'ble Court holding that the Petitioner was free to avail such other remedies as are available to him in law. Thereafter, the Petitioners approached the District Magistrate, Haridwar and filed the matter before him on 15.07.2019.

- 2.5 The District Magistrate, Haridwar vide order dated 23.07.2020 disposed the matter deciding a compensation of Rs. 2,35,549/- against the affected 481 trees on the land of the Petitioners. Besides this, an additional compensation of Rs. 55,080/- was determined towards diminution of land value in the width of Right of Way (RoW) corridor due to laying of LILLO line in accordance with the directions issued by the Ministry of Power in this regard.
- 2.6 The Petitioners on not being satisfied with the order of the District Magistrate, Haridwar have now approached the Commission for revision of the aforesaid order of the District Magistrate, Haridwar, requesting the Commission to quash the aforesaid order of the District Magistrate, Haridwar and direct the Licensee to pay compensation for proposed cutting of trees and losses to the tune of Rs. 50 lakh and a yearly rent at the rate of Rs. 1 lakh per annum for future losses due to establishment of overhead transmission line.
- 2.7 Accordingly, the Commission on receiving the Revision Petition decided to hear the matter on admissibility on 27.10.2020. Meanwhile, the Licensee vide letter dated 22.10.2020 and the District Magistrate, Haridwar vide letter dated 22.10.2020 submitted their comments on admissibility requesting the Commission to dismiss the Petition on admissibility.
- 2.8 On the said date of hearing i.e. 27.10.2020, the Commission heard the parties and decided to admit the Petition vide daily order dated 27.10.2020. Further, the Commission vide the aforesaid order dated 27.10.2020, directed the Respondent to file a reply on merits by 03.11.2020 with an advance copy to the Petitioners who were given liberty to file rejoinder, if any, by 09.11.2020 before the Commission.
- 2.9 Thereafter, the Commission decided to schedule a hearing on merits in the matter on 10.11.2020 and informed the parties about the said hearing vide letter dated

28.10.2020. Meanwhile, the Licensee vide letter dated 02.11.2020 submitted his comment on merits in the matter.

2.10 On the scheduled date of hearing, the Commission heard the parties in detail. Both the parties concluded their submissions/arguments in the matter.

### **3. Submissions by the Revisionists**

3.1 The Revisionists vide their Petition have submitted that the Licensee started working on erection of the LILO line without the consent of the Revisionists and was illegally trying to lay down the said transmission line without payment of compensation, yearly rent, future damages etc. to the Petitioners.

3.2 Further, the Revisionists have submitted that the order issued by the District Magistrate is illegal as the District Magistrate has not allowed a yearly rent for the future losses due to the laying of the said line and the compensation awarded for the trees is also not in accordance with previous order passed in the similar matters. In this regard, the Petitioner has submitted that:

*“...similar controversy arises before the District Magistrate Haridwar in year 2013 wherein a rate list was provided and made part of order dated 15.10.2013 and compensation for trees are provided by said list, as such the said list was of 2013 even though the revisionists requested to follow the same although same was also not adhere to and as per the order there being 403 trees of popular measuring circumference f more than 18 inches thus required to paid @ 5000/- per tree thus the same amounts to 20,15,000/- rupees and other too are required to be paid according to the rate list as prevalent in year 2013 total amount comes to 3158000/- rupees and thus order dated 23.07.2020 is liable to be quashed as such revisionists are entitled for minimum rates as prevalent in year 2013 and the same even has not been paid to the revisionists as being entitled”.*

3.3 Furthermore, the Revisionists have submitted that the Works of Licensee Rules 2006 have provided for yearly rent also for the use of land by the occupier i.e. Licensee as after installation of transmission line, the land cannot be used for any other purposes except for cultivating low height crops. Therefore, yearly rent be provided to the Revisionists.

3.4 That while considering the matter, the District Magistrate has considered the provisions of the Indian Telegraph Act and same are not applicable since the

enactment of the Electricity Act, 2003. That under Section 176(2)(e) and Section 67(2) of the Electricity Act, 2003, the Works of Licensee Rules 2006 have been framed and Rule 3 of the same provides the manner and way the compensation is to be paid to the owner of land or building for laying any overhead line and the yearly rent which can be termed as compensation for future loses.

3.5 That the District Magistrate has completely ignored the fact that the land cannot be used for any purpose by the Petitioners in future due to passing of the overhead LILLO line and is thus entitled for yearly rent which is completely ignored in the impugned order of the District Magistrate.

#### **4. Submissions by the Respondents**

4.1 In reply to the submissions made by the Revisionists, the Licensee has submitted that the District Magistrate vide his order dated 19.06.2020 constituted a Committee having Officers of various concerned departments for valuation of trees. The composition of the Committee itself shows that the best possible officers were deputed for the task. The Committee submitted its Report on 03.07.2020. The said Report was not challenged nor any objections against the same were filed during the proceedings by the Revisionists. The report was accepted and thus, has attained finality.

4.2 Further, the Licensee has submitted that:

*“...at the time of constitution of the committee by the District Magistrate, the rates which were available for the government were as per the list of the forest department prepared in the year 2012, and he should have granted compensation as per the same unless the government itself revises the rate, however the District Magistrate on his own deemed it just to grant the compensation for tree cutting as per the present market value, and accordingly the compensation was granted which is higher than was is permissible as per forest department list”.*

4.3 That in the impugned order dated 23.07.2020, it can be seen that the Petitioner insisted before the District Magistrate for payment of compensation as per prevalent Rules of the Forest and Horticulture department. Moreover, mostly throughout the country, compensation for tree cutting is uniformly given as per the rate list of the forest and horticulture department. Further, there are no rules

and Regulations for determining the value of trees being cut, for the purpose of asserting the compensation in the Electricity Act or any other Rules or Regulations framed thereunder. The Rules itself leaves it is on the discretion of the concerned District Magistrate to determine compensation for tree cutting.

- 4.4 That from the Petition it can be observed that the order dated 15.10.2013 passed by District Magistrate, Haridwar in the matter of Brijendar Kumar Vs. Power Grid Corporation of India Ltd. (PGCIL) shows that even in that matter the compensation was to be given as per the assessment done by the officers of the forest, agriculture and horticulture department as per the Government Order dated 16.05.2012, further, the compensation was to be granted as per the highest rate permissible in the list for the various categories of trees provided therein. Further, Respondent submitted that:

*“...from the minutes of meeting dated 02.12.2014 (filed at internal page No. 56 of the petition) it can be seen that the determination of the compensation by PGCIL is not in the light of the order of the district magistrate but for resolving the dispute, the minutes nowhere mentions that the compensation is being given as per the order of the district magistrate, hence the reliance by the petitioner on this order is not relevant moreover the District Magistrate has himself rightly analysed the admissibility and binding of the said order”.*

- 4.5 That the order dated 15.10.2013 and the order dated 03.08.2010 of the Hon'ble Allahabad High Court annexed to the Revision Petition are not at all relevant after the notification of the guidelines dated 15.10.2015 by the Government of India, Ministry of Power, for determination of compensation in regard to right of way for laying Transmission lines. The said guidelines have been adopted by PTCUL and the same reads as:

“ ...

- i) Compensation @85% of land value as determined by District Magistrate or any other authority base on Circle rate/Guideline value/Stamp Act rates for tower base area (between four legs) impacted severely due to installation of tower/paylon structure.
- ii) Compensation towards diminution of land value in the width of Right of Way (RoW) Corridor due to laying of transmission line and imposing certain restriction would be

*decided by the States as per categorization/type of land in different places of States, subject to a maximum of 15% of land value as determined based on Circle rate/Guideline value Stamp Act rates;*

*As can be seen these guidelines not only lay down criteria for determination of compensation in case where the land utilization is severely affected and the land becomes almost completely utilizable, but also in cases where there is diminution of land value, the report of the committee and the comments of various stake holders have also been published, from the background mentioned in the report of the committee the purpose why it was necessitated has also been mention, which shows that how compensation earlier by various authorities were settled differently and why it was necessary to lay down lies together with the relevant law under which the compensation was determined."*

4.6 That for the Commission to exercise revisional jurisdiction, the Petitioners have to point out any jurisdictional error committed by the District Magistrate. However, the Petitioners have failed to do so in his Petition.

4.7 That the Petitioners are assuming and considering the construction of line for the purpose of making handsome gains, without even realizing that this act of the Petitioner is causing huge loss to the Licensee and eventually to the State and its consumers. The Petitioners on one pretext or the another are obstructing felling of trees, because of which the stringing of the conductor between five towers out of total 32 towers is being held up.

4.8 That it is humbly submitted that:

*"...the Learned Magistrate has as per the mandate of the Act already granted permission as required under Section 67(2) and also the permission of the Government under Section 68 of the Electricity Act was obtained. The Petitioner has no authority to obstruct the construction of line or in removal of trees causing hindrance, the act of the Petitioner is punishable, the Hon'ble Commission has been conferred with powers to penalize the defaulting party, we request the Hon'ble Commission to take stern action against the Petitioner so that recurrence of such instances in the construction of transmission lines can be minimized and necessary direction be issued so that the work of the line is completed at the earliest."*

## 5. Commission's observations, views & decision

5.1 The instant matter in hand is filed under the Revisional jurisdiction of the Commission, whereby, the Commission is requested by the Revisionists to revise the impugned order dated 23.07.2020 of the District Magistrate, Haridwar. The said Revision jurisdiction of the Commission is requested under Rule 3 of the Works of Licensee Rules, 2006. However, the said Rules are prescribed by the Central Government under section 67 (2) of the Electricity Act, 2003 and not by the Uttarakhand Government which is the appropriate Government in the present case to may have prescribed the Rules. Since, in absence of Rules prescribed by the State Government, Section 12 to Section 18 of the Indian Electricity Act, 1910 are applicable as stated in section 185 (2) (b) of the 2003 Act. The said section reads as:

*“(b) the provisions contained in sections 12 to 18 of the Indian Electricity Act, 1910 and rules made thereunder shall have effect until the rules under section 67 to 69 of this Act are made;”*

Therefore, the present Revision proceedings are being exercised under the prevailing provisions of the Indian Electricity Act, 1910.

5.2 On examining the impugned order dated 23.07.2020 of the District Magistrate, it has been observed that the District Magistrate while examining the dispute before it, had taken the submissions of the Revisionists and the Licensee on record on dated 19.09.2019 and 03.09.2019 respectively. Thereafter, the District Magistrate heard the parties on 19.06.2020. It is observed from the impugned order that the Revisionists had requested before the District Magistrate to provide them compensation at the prevailing rate list of the Forest Department and Horticulture Department. The District Magistrate considering that the latest rate list of the Forest and Horticulture Department was for the year 2012 and has not been revised till date, thought it wise to provide compensation for the affected trees to the Petitioners at prevailing rates and accordingly, vide its order dated 19.06.2020 constituted a committee for assessing the value of the affected trees. The committee submitted its conclusive report on 03.07.2020. Thereafter, during the hearing before the District Magistrate on the said report of the committee, no written or oral objections were made by either party before the District Magistrate. On being

satisfied with the report of the committee, the District Magistrate decided the compensation amount to be paid to the Petitioners vide the impugned order. It is imperative to import the relevant extract from the impugned order that *inter alia* entails the report of the committee:

“वाद में पक्षों को लिखित तथा मौखिक साक्ष्य दाखिल किये जाने का अवसर प्रदान किया गया। वादीगण द्वारा दिनांक 19.09.2019 को फ़ैहरिस्त सबूत में अंकित अभिलेख दाखिल किये गये तथा प्रतिवादी द्वारा दिनांक 03.09.2019 को फ़ैहरिस्त सबूत में अंकित अभिलेख दाखिल किये गये।

वाद में दिनांक 19.06.2020 को पक्षों को सुना गया। वाद में वादी संख्या-2 के द्वारा यह कथन किया गया कि प्रतिवादी द्वारा वन विभाग द्वारा वर्ष-2012 की आख्यानुसार पेड़ों का मुआवजा दिया जा रहा है जो कि बहुत कम है तथा उन्हें स्वीकार नहीं है। वादीगण को पेड़ों का मुआवजा वर्तमान में वन विभाग व बागवानी विभाग के लागू नियमों के अनुसार दिये जाने पर बल दिया गया। प्रतिवादी के अधिवक्ता द्वारा वन विभाग द्वारा वर्ष-2012 निर्धारित दर से पेड़ों का मुआवजा दिये जाने पर बल दिया गया।

वाद पत्रावली में दोनों पक्षों को सुनने के उपरान्त पत्रावली का अवलोकन किया गया। पत्रावली पर उपलब्ध कार्यालय उप प्रभागीय वनाधिकारी, रुड़की उप वन प्रभाग रुड़की द्वारा अपने पत्र दिनांक 26.03.2016 के द्वारा वन विभाग द्वारा वर्ष-2012 से प्रचलित विभिन्न प्रजाति के वृक्षों के व्यासवार अनुसूचित दरों/मूल्यांकन सूची की छायाप्रति के आधार पर प्रतिवादी द्वारा मुआवजा धनराशि की गई है। वर्ष-2012 से वर्ष-2020 तक उक्त अनुसूचित दरों/मूल्यांकन सूची को परिवर्तित नहीं किया गया। वन विभाग द्वारा वर्ष 2020 अनुसूचित दरों/मूल्यांकन सूची में परिवर्तन होना स्वाभावित था। यहां पर यह उल्लेखनीय है कि ऐसा कोई स्पष्ट आदेश नहीं है कि वन विभाग द्वारा निर्धारित अनुसूचित दरों/मूल्यांकन सूची के आधार पर वृक्षों के मुआवजे को निर्धारित किया जाए।”

“... चूंकि प्रश्नगत प्रकरण में सम्बन्धित द्वारा वर्ष-2012 के वृक्षों की अनुसूचित दरों/मूल्यांकन सूची में कोई परिवर्तन नहीं किया गया जबकि वृक्षों के प्रतिकर का निर्धारण वर्तमान में किया जाना है। वन विभाग की अनुसूचित दरों/मूल्यांकन सूची के अतिरिक्त अन्य किसी विभाग की पेड़ों के मूल्यांकन के सम्बन्ध में कोई मूल्यांकन सूची नहीं है जिसके आधार पर प्रभावित वृक्षों के प्रतिकर के निर्धारण के लिए मेरे द्वारा आदेश दिनांक 19.06.2020 के द्वारा वादीगण की कृषि भूमि खाता संख्या 324 खसरा नम्बर 560 व खाता संख्या 331 खसरा नम्बर 771 स्थित भूमि ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर, जिला हरिद्वार में खड़े पेड़ों के मुआवजे के मूल्यांकन किये जाने हेतु 1-प्रभागीय वनाधिकारी, वन प्रभाग, हरिद्वार की ओर से नामित अधिकारी, 2-प्रभागीय लॉगिंग प्रबन्धक, हरिद्वार की ओर से नामित अधिकारी, 3-अधिसासी अभियन्ता, पिटकुल, रुड़की व 4-तहसीलदार भगवानपुर समिति का गठन कर, समिति से अपेक्षा की गई कि अपनी पेड़ों की मूल्यांकन आख्या न्यायालय में दिनांक 26.

06.2020 तक उपलब्ध कराना सुनिश्चित करें। साथ उक्त की वीडियोग्राफी किये जाने हेतु भी निर्देशित किया गया। गठित समिति द्वारा अपनी संयुक्त मापांकन जांच आख्या दिनांक 03.07.2020 को न्यायालय में उपलब्ध कराई गई जो पत्रावली पर उपलब्ध हैं। उक्त समिति के आख्या पर सुनवाई के दौरान किसी भी पक्ष द्वारा कोई लिखित अथवा मौखिक आपत्ति प्रस्तुत नहीं की गई। जांच समिति द्वारा अपनी मापांकन जांच आख्या में उल्लेख किया गया है कि राजस्व अभिलेखों में भूमि खसरा नम्बर 560 मांगेराम आदि व 771 राजश कुमार आदि स्थित ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर जिला हरिद्वार के नाम अंकित हैं जिनके ऊपर विद्युत पारेक्षण लाईन हनी गुजर रहीं हैं। अपितु राजस्व अभिलेख में वादीगण के भूमि खसरा 709, 807 व 729 स्थित ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर, जिला हरिद्वार के नाम अंकित हैं तथा उक्त खसरा नम्बरान के ऊपर से विद्युत पारेक्षण लाईन गुजर रही हैं। गठित जांच समिति के की आख्या दिनांक 29.06.2020 के अनुसार खसरा नम्बर 709 सिति ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर जिला हरद्वार में खड़े पोपलर के 290 पेड़ तुन के 72 पेड़ जामुन के 01 पेड़, सीरस के 02 पेड़, आम के 01 पेड़ व अमरुद के 01 पेड़ व खसरा नम्बर 729 सिति ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर, जिला हरद्वार में खड़े पोपलर के 76 पेड़ व खसरा नम्बर 807 स्थित ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर जिला हरिद्वार में खड़े पोपलर के 37 पेड़ कुल 481 पेड़ों का वर्तमान बाजारी मूल्य रुपये 2,35,549/- (दो लाख पैंतीस हजार पाँच सौ उन्नचस) आंका गया है। इसके अतिरिक्त विद्युत मंत्रालय भारत सरकार के अनुसार भूमि का प्रभावित 153ग20ग15:त्र459६ वर्गमीटर जिसका मुआवजा 459 ग 120 त्र रुपये 55९080६ ;पचपन हजार अस्सी६ हैं, जो वादीगण को प्रतिवादी से दिया जाना उचित प्रतीत होता है।”

### आदेश

अतः उपर्युक्त विवेचना के आधार पर वादीगण का वाद आंशिक रूप से स्वीकार किया जाता है। वादीगण का खसरा नम्बर 709, 729 एवं 807 स्थित ग्राम हाल्लूमजरा परगना व तहसील भगवानपुर जिला हरिद्वार में खड़े कुल 481 पेड़ों का वर्तमान बाजारी मूल्य रुपये 2,35,549/- (दो लाख पैंतीस हजार पाँच सौ उन्नचास) दिया जाता है। उसके अतिरिक्त विद्यु तमंत्रालय भारत सरकार के अनुसार भूमि का प्रभावित क्षेत्रफल  $153 \times 20 \times 15\% = 459$  वर्गमीटर जिसका मुआवजा  $459 \times 120 =$  रुपये 55,080/- (पचपन हजार अस्सी) दिया जाता है। प्रतिवादी उक्त धनराशि का भुगतान वादगण को नियमानुसार करना सुनिश्चित करें। खसरा नम्बर 709, 729 एवं 807 स्थित ग्राम हाल्लूमजरा, परगना व तहसील भगवानपुर जिला हरिद्वार में खड़े कुल 481 पेड़ों का कटान किया जाए। भारत सरकार की अधिसूचना दिनांक 18.06.2006 के नियम-3 के परन्तुक-2 के अनुसार प्रतिवादी के विद्युत पारेक्षण लाईन के कार्य में वादीगण या अन्य कोई व्यक्ति/संस्था प्रत्यक्ष या अप्रत्यक्ष रूप से कोई अवरोध/बाधा उत्पन्न नहीं करेंगे। प्रतिवादी प्रश्नगत भूमि खसरा नम्बर 709, 729 व 807 स्थित ग्राम हाल्लूमजरा, परगना तहसील भगवानपुर जिला हरिद्वार पर निर्माणाधीन 132 के0वी0 भगवानपुर-चुड़ियाला लीलो

*पिरान कलियर विद्युत पारेषण लाईन को यथाशीघ्र पूर्ण करना सुनिश्चित करें। तदनुसार वाद का निस्तारण किया जाता है। पत्रावली बाद आवश्यक कार्यवाही के दाखिल दफतर की जावें। ”*

- 5.3 With regard to amount of compensation determined, it is evident that the District Magistrate relied on the Report submitted by the Committee on 03.07.2020, which was never disputed by either party and accordingly, the District Magistrate calculated/determined an amount of Rs. 2,35,549/- as compensation, as per the prevailing market rates and further calculated an amount of Rs. 55,080/- towards diminution of land value as per the guidelines of GoI dated 15.10.2015 payable to the Petitioners as compensation. It appears that the District Magistrate has followed utmost diligence in determining the compensation payable to the Petitioners and has adopted methods which appear fair on the test of reasonability. On the submission of the Petitioners that the amount of compensation is insufficient seems unjustified. The Petitioners themselves have not provided any alternate methodology to be adopted by the District Magistrate in determining compensation and are disputing the compensation amount without any basis. Further, the submission of the Petitioners, wherein, they are relying on the compensation provided by PGCIL in the similar circumstances cannot be accepted as the compensation provided by PGCIL was not as per the orders of the District Magistrate and was a onetime settlement as has been rightly pointed out by the Licensee provided at para 4.4 supra. Thus, it is clear that the order of the District Magistrate does not suffer from any illegality.
- 5.4 On the question of providing annual rent to the Petitioners, it is evident that the land of the Petitioners over which the transmission line is passing, has not been acquired by the Licensee and will remain in the ownership and possession of the Petitioners in which they can still carry out all the agricultural activities unhindered and can grow trees attaining certain height as permissible under the law for which they are being compensated as per the guidelines dated 15.10.2015 issued by Ministry of Power, GoI. Therefore, not providing the annual rent to the Petitioners is not illegal.

5.5 Besides the above, it is imperative that the instant matter be examined within the scope & essentials of Revision provided under Section 115 of the Code of Civil Procedure, 1908, (CPC) which stipulates that:

*“(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears*

*(a) to have exercised a jurisdiction not vested in it by law, or*

*(b) to have failed to exercise a jurisdiction so vested, or*

*(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit:”*

5.6 It is only in cases where the subordinate court has exercised jurisdiction not vested in it by law, or has failed to exercise jurisdiction so vested, or has acted in excess of its jurisdiction illegally or with material irregularity that the jurisdiction of the Commission based on the above provision of the CPC can be properly invoked. After examining the order of the District Magistrate it is evident that there is no error in the order of the District Magistrate or that the District Magistrate has not exercised the jurisdiction vested in him or has failed to exercise jurisdiction vested in him.

In the case of Baldevdas Shiv Lal V/s Filmistan Distributors (India) Pvt. Ltd. AIR 1970 SC 406, the Hon’ble Supreme Court has observed that:

*“The primary object of this section is to prevent the subordinate courts from acting arbitrarily, capriciously and illegally or irregularly in the exercise of their jurisdiction. It clothes the High Court with the powers necessary to see that the proceedings of the subordinate courts are conducted in accordance with the law within the bounds of their jurisdiction and in furtherance of justice.”*

The scope of Revision is limited to the above three parameters. There appears no jurisdictional error committed by the District Magistrate in the impugned order and there is no illegality or material irregularity found in the said order. Therefore, there is no reason to interfere with the order passed by the District Magistrate. Moreover, the claim of the Petitioners to revise compensation and provide annual

rent have been established unreasonable and unjustified, therefore, the Revision itself is uncalled for.

In light of the above, the Commission is of the view that the order of the District Magistrate is sound and reasonable and does not suffer from any infirmities. *Per contra* the Commission does not find any merits/justification in the arguments of the Petitioners and therefore, revision is liable to be dismissed.

The Petition is hereby dismissed.

Ordered Accordingly.

**(M. K. Jain)**  
**Member (Technical)**

**(D.P. Gairola)**  
**Member (Law)**