

GAHC010189322018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/6063/2018

SMT. SANTOSH AGARWAL
D/O- LT BHAGAWATI PRASAD AGARWAL, W/O- SRI PAWAN KR. AGARWAL,
R/O- RAHA TOWN, PURANA CHARIALI, DIST- NAGAON, ASSAM,
PRESENTLY RESIDING AT H.NO. 8, TARUN NAGAR, BYE LANE- 2/9, GHY- 5,
DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMM. AND SECY. TO THE GOVT. OF ASSAM, LAND
REVENUE DEPTT., DISPUR, GHY-6, DIST- KAMRUP, ASSAM

2:THE POWER GRID CORPORATION OF INDIA LTD.
A PUBLIC LTD. COMPANY REGD. UNDER COMPANIES REGISTRATION
ACT
1956 HAVING ITS REGISTERED OFFICE AT B-9
QUTAB INSTITUTIONAL AREA
KATAWIA SARAI
NEW DELHI- 110016
REP. BY THE CHAIRMAN CUM MANAGING DIRECTOR

3:THE DY. COMMISSIONER
CACHAR
SILCHAR
ASSAM PIN- 782001

4:THE CHIEF MANAGER (CONSTRUCTION)
POWER GRID CORPORATION OF INDIA LTD.
BADARPUR GHAT
DIST- HAILAKANDI
ASSAM
PIN- 78815

For the petitioner (s) : Mr. A. K. Rai, Advocate

For the respondent (s) : Mr. N. C. Das, Sr. Advocate

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 09.10.2023

Date of Judgment : 09.10.2023

JUDGMENT AND ORDER (ORAL)

The instant writ petition was filed on 27.08.2018 seeking a writ in the nature of certiorari for setting aside the orders dated 18.02.2016 and 22.05.2018 passed by the Office of the Deputy Commissioner, Cachar, Silchar; for a direction upon the respondent authorities to pay the petitioner the balance amount of compensation amounting to Rs.19,56,919/- and further a direction upon the Deputy Commissioner to enquire and submit a detail report regarding the surface damage compensation payable to the petitioner in respect of Tower being LOC No.4/0, 4/0(A), 5/0 and 6/0 of 400 KV/DC PK Bari Transmission line over the land of the petitioner.

2. It reveals from the records that the petitioner initially along with her husband Sri Pawan Kumar Agawal had filed the writ petition before this Court being WP(C) No.4862/2014 being aggrieved by the inadequacy of the compensation paid to them in March, 2012. The said writ was disposed of vide an order dated 24.09.2014 holding inter-alia that under Sub-Section (3) and Sub-Section (4) of Section 16 of the Indian Telegraph Act, 1885, any party aggrieved with the surface damage amount can approach the jurisdictional District Judge for redressal of their grievances, and as such, both the petitioners

including the petitioner herein were relegated to the competent Court. Being aggrieved, the petitioners in WP(C) No.4862/2014 filed a writ appeal being WA No.348/2014. In the said writ appeal, the counsel representing the writ appellants who were the petitioners in WP(C) No.4862/2014 which includes the petitioner in the instant proceedings sought to withdraw the said writ appeal with a liberty to approach the Deputy Commissioner, Cachar. The Division Bench of this Court permitted the appellants therein to withdraw the appeal with liberty to approach the Deputy Commissioner, Cachar who if and when such approach is made was directed to consider the case of the appellants in accordance with law and as expeditiously as possible.

3. The record further reveals that the petitioner herein along with her husband approached the Deputy Commissioner, Cachar on the basis of the liberty so given by the Division Bench of this Court in its order dated 24.11.2014 passed in WA No.348/2014. Thereupon, two orders were passed by the Additional Deputy Commissioner, Cachar on 18.02.2016 and 22.05.2018. It is relevant to take note of that both the orders were passed in the case of the husband of the petitioner, i.e. Sri Pawan Kumar Agarwal and not the petitioner. It further reveals that the instant writ petition was filed by the petitioner being aggrieved by the orders dated 18.02.2016 and 22.05.2018 and seeking the relief as above mentioned.

4. As per Section 16 of the Indian Telegraph Act, 1885 stipulates that it is the Court of the District Judge within whose jurisdiction the property is situated to be the authority to decide the inadequacy of the compensation as well as the apportionment of the compensation. This aspect of the matter was also dealt with and directed in the order dated 24.09.2014 passed in WP(C) No.4862/2014 by the Coordinate Bench of this Court. However, in the order of the Division

Bench dated 24.11.2014 in WA No.348/2014, the Division Bench of this Court had permitted the petitioner to approach the Deputy Commissioner. It being a well settled principle of law that when the statute confers a jurisdiction upon an authority to decide, it is only that authority who can decide and not others unless the statute permits for which it is the opinion of this Court that the words 'Deputy Commissioner' appearing in the order dated 24.11.2014 in WA No.348/2014 must have been a result of a stenographer's devil in as much as in the order the words 'District Judge' must have been wrongly inserted as 'Deputy Commissioner'. In that view of the matter the Deputy Commissioner, Cachar, therefore, could not have entertained the representation submitted on 28.11.2014 by the petitioners or even passed the orders which have been impugned to the instant proceedings.

5. Taking into account that the Deputy Commissioner, Cachar has no jurisdiction or the authority as conferred by the Indian Telegraph Act, 1885, the approach made by the petitioner by submitting the representation dated 28.11.2014 and the subsequent orders so passed by the Additional Deputy Commissioner impugned in the instant proceedings are nullity and nonest in law.

6. In that view of the matter, taking into account the order dated 24.09.2014 passed in WP(C) No.4862/2014, this Court grants the liberty to the petitioner to approach the District Judge against the inadequacy of the compensation paid to them in the month of March, 2014 if she continues to be aggrieved. The period w.e.f. 25.09.2014 till date, i.e. 09.10.2023 shall be excluded while computing the period of limitation.

7. This Court further directs that in the eventuality the petitioner approaches the District Judge, Silchar, the District Judge, Silchar shall duly take note of that

the delay in approaching the Court was on account of the no fault of the Power Grid Corporation and for which no interest should be saddled upon the Corporation for the period from 25.09.2014 till the petitioner approaches if the amount is enhanced.

8. Accordingly, the instant writ petition stands disposed of.

JUDGE

Comparing Assistant