

Court No. - 40

Case :- WRIT - C No. - 33094 of 2023

Petitioner :- Baburam And 7 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Santosh Kumar Shukla, Kulveer Singh

Counsel for Respondent :- C.S.C., Narendra Kumar Tiwari

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioners, Sri Devansh Rathore, learned Additional Chief Standing Counsel for the State-respondent nos.1 and 2 and Sri Rajesh Kumar Mishra, Advocate holding brief of Sri N.K. Tiwari, learned counsel for respondent nos.3 and 4.
2. Petitioners are before this Court with request to issue a writ, order or direction in the nature of mandamus directing District Magistrate, Saharanpur to decide the application moved by petitioners dated 11.7.2023. and change the proposed electricity line of 11000 volt from the plot of the petitioners and draw the same through chak marg.
3. Petitioners claim to be residents of Khasra no.60 situated in Village-Asadpur Karanjali, Tehsil-Deoband, District-Saharanpur and on application of respondent no.4, who is co-tenure holder of Khasra No.60, survey for laying down transmission lines of 11000 volt has been carried out from the plots of the petitioners to which the petitioners have objected. The petitioners submit that there is chak marg in the side of the plots and the said electricity line may be laid over the same.
4. The claim of the petitioners has been opposed by learned Additional Chief Standing Counsel and learned counsel appearing for the respondent-Power Transmission Corporation.
5. In **Deva Raj Vs. U.P. State Electricity Board, Lucknow & Ors., AIR 1977 Allahabad 452**, a Division Bench of this Court had examined the provisions of Section 51 of the Indian Electricity Act, 1910, which is similar to the provisions of Section 164 of the Electricity Act, 2003 and observed that in view of the notification issued by the State Government under Section 51 of the 1910 Act read with Section 10 of the Telegraphs Act, the respondents have the power to install the towers on the land owned by a person.
6. Similarly the Madras High Court, in **E. Venkatesan & Ors. Vs. Chairman,**

Tamil Nadu Electricity Board, Madras & Ors., AIR 1977 Madras 64 while dealing with the powers under Section 51 of the Act of 1910, also observed :-

"From the above settled position of law, it is clear that when the Electricity Board exercises power under Section 51 of the Electricity Act read with Section 10 of the Telegraphs Act, they are not acquiring any land. They are only making use of the land for the purpose of laying electricity lines for which full compensation is given for the damage caused. It is also clear therefrom that no notice is required to the owner before laying the poles or constructing any tower, nor any consent is required from them."

7. This Court, in **Writ C No.29995 of 2016 (Pooran Singh and 30 others vs. State of UP and 3 ors)** decided on 5.7.2016, has observed that the construction of transmission power service lines cannot be stopped for want of payment of compensation. However, an appropriate direction can be issued to the competent authority for determining the compensation in accordance with law and pay the same to the tenure holders over whose land the towers are being erected.

8. We, accordingly, dispose of this writ petition with liberty to the petitioners to move an appropriate application before the concerned District Magistrate with regard to their claim along with a certified copy of this order and other supporting materials, whereupon the District Magistrate shall pass appropriate orders regarding claim of the petitioners in accordance with law within three months from the date of production of a certified copy of this order.

Order Date :- 31.10.2023

Manish Himwan