

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1090 of 2015
IN
Civil Writ Jurisdiction Case No. 8286 of 2015**

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1. The Chairman Power Grid Corporation of India Ltd., Gurgaon, Haryana.
 2. Executive Director, Power Grid Corporation of India Ltd., Alankar Palace, Boring Road, Patna.
 3. Chief Manager, Power Grid Corporation of India Ltd., Dariyapur Kafan, Muzaffarpur.
 4. Assistant General Manager [TL], Power Grid Corporation of India Ltd., Dariyapur Kafan, Muzaffarpur

.... Respondents-Appellant

Versus

1. Amresh Kumar son of Late Mithilesh Prasad Singh, Resident of Village Mushari @ Radha Nagar, P.S. Mushari, District- Muzaffarpur.
2. Dilip Kumar Srivastava Son of Late Mahendra Prasad Srivastava
3. Sudhir Kumar Son of Late Nantuman Prasad Singh
4. Smt. Babita Devi Wife of Shri Shivjee Prasad Singh
5. Sonelal Singh Son of late Bindeshwar Singh, All resident of Village- Rohua Rajaram, P.S- Mushari, District Muzaffarpur.
6. Dhruv Narain Singh
7. Mohan Singh, Both Sons of Late Shyam Sundar Singh
8. Bholi Sharma Wife of Late Ram Chandra Sharma Resident of village- Rohua Apuch, P.S-Mushari, District- Muzaffarpur

.... Petitioners-Respondents

9. District Magistrate, Muzaffarpur
10. Station House Officer, Mushari Police Station, District- Muzaffarpur

.... Respondents-Respondents

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Appearance :

For the Appellant/s : Mr. Janardan Prasad Singh, Sr. Adv.
Mr. Arbind Kumar Singh, Adv.
For the Respondent/s : Mr. Naresh Chandra Verma, Adv.
Mr. Natraj Verma, Adv.
Mr. Ravi Verma, A.C. TO GP-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-07-2015

This Letters Patent Appeal arises out of an order
dated 27.5.2015, passed by the Learned Single Judge in I.A.

No.4597 of 2015 in C.W.J.C. No.8286 of 2015.

In pursuance of a bilateral agreement between India and Nepal, a cross-border power transmission line is proposed to be constructed between Muzaffarpur and Sursand in the State of Bihar. The respondents are residents of Mushari, Rohua Rajaram and Bhatolia of Muzaffarpur district. A tower line of 400 K.V.A. was to pass through the neighbouring villages, according to the initial plan. However, on finding that quite large number of structures are to be affected and serious objections are being raised by the local residents, an alternative plan was prepared, according to which the line passes through the villages of the respondents.

The respondents filed the writ petition challenging the action of the appellants herein. It was alleged that the original route was changed in view of certain pressure and that the procedure of change of route, does not have the approval from the competent authority. Certain other grounds were also raised. I.A. was filed for interim orders.

The Learned Single Judge passed the order under appeal, in the I.A. restraining the appellants from laying the line over the lands of the respondents. Hence, the

Appeal.

Heard Shri Janardan Prasad Singh and Shri Arbind Kumar Singh, learned counsel for the appellants and Shri Naresh Chandra Verma, Shri Natraj Verma and Ravi Verma, learned counsel for the respondents.

As per the original plan, the line was not supposed to pass through the lands of the respondents. However, the appellants have assigned the reasons that warranted the change of the route of the line. It was pleaded that the line was to pass through the municipal area of Muzaffarpur and over several R.C.C. structures. It was also mentioned that the alternative route was chosen in such a way that least possible inconvenience is caused to the holders of the lands.

The 1st contention that the line was changed on account of the pressure by some influential persons does not find any support from the record. Except making the bald allegation, the respondents did not name any one who can be said to have pressurized the appellants to change the route. So far as the 2nd contention is concerned, the respondents have placed before this Court a copy of the letter dated 2.5.2015 (Annexure-13) through which the Assistant General Manager has accorded permission for the

change of the route.

The passage of line over any particular land would certainly bring about an element of inconvenience to the owners. The construction to be made under the line are being limited up to a permissible height. However, as between the larger public interest and individual interest, the former has to prevail. It is only when a citizen is put to extreme difficulty, which is otherwise avoidable, that the Court can interfere. The respondents are not able to demonstrate that the construction of line as proposed, would totally disable them from utilizing their lands. In case any tower is to be constructed, the compensation is paid according to law and if the same is found to be not adequate, steps can be taken for enhancement thereof. Further, even where the line passes, the buildings up to certain height can be constructed and the appellants cannot prohibit any constructions, whatever, under the line.

For the foregoing reasons, we dispose of the Appeal as well as the writ petition directing that;

(a) it shall be open to the appellants herein i.e. the respondents in the writ petition to construct the line as proposed;

(b) the respondents shall be entitled to make

constructions on their respective lands for the present, up to the height of 25ft from the ground, without raising any super vertical structures over the roof, subject to the law that will be laid down by the Hon’ble Supreme Court in this behalf; and

(c) in case any tower is proposed to be constructed on the lands of the appellants, it shall be done only on payment of adequate compensation and not otherwise.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-
N.A.F.R.

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