

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1089 of 2015
IN
Civil Writ Jurisdiction Case No. 3809 of 2015**

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1. The Power Grid Corporation of India Limited, through its Managing Director having its Officer, Alankar Palace, Boring Road, Patna.

.... Respondent/Appellant

Versus

1. Adelaide Convent School, Sampatchak (Sohagi Rampur), Patna through its Director Lal Babu Singh, S/o Late Murlidhar Singh, R/o B-36, Hope Mahendra Apartment, Chitragupta Nagar, P.S.- Patrakar Nagar, District- Patna.

.... Petitioner/Respondent

2. The State of Bihar

3. The District Magistrate, Patna.

4. The Secretary, Central Electricity Authority, Seva Sadan, 3rd Floor, Chanakayapur.

.... Respondents/Respondents

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Appearance :

For the Appellant : Mr. Arbind Kumar Singh, Adv.

For the Respondents : Mr. M.K. SINGH- SC6
Mr. Sanjay Mandal, AC to SC-6
Mr. Prabhakar Tekriwal, Adv.
Mr. Manish Kumar, Adv.

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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 28.5.2015 passed by the Learned Single Judge in I.A. No.3875 of 2015 in C.W.J.C. No.3809 of 2015.

The 1st respondent herein filed the writ petition challenging the action of the appellants in preventing them from constructing a school building, in his Raiyati land near Patna Bye-pass Road, on the ground that a High Tension Transmission Line exists over the land. An I.A. was



filed with a prayer to restrain the respondent from interfering with the construction of the building. The appellants pleaded that the issue that arises for consideration in the writ petition, is pending adjudication before the Hon'ble Supreme Court in S.L.P. (Civil) No.8342 of 2009. Learned Single Judge passed the order under appeal restraining the appellants from interfering with the lands of the 1st respondent.

Heard Mr. Arbind Kr. Singh, learned counsel for the appellants and Mr. Prabhakar Tekriwal and Mr. Sanjay Mandal, learned counsel for the respondents.

It may be true that the 1st respondent is the absolute owner of the land in question. However, it is not denied that a High Tension Transmission Line is passing through the land. The extent of power that is carried in the line is so high that gap of about 5 metres around the line is required to be maintained. Therefore, the 1st respondent cannot be permitted to construct the building in such a way that the inmates are exposed to danger of electrocution. Added to that, the nature of rights and obligations of the appellants, on the one hand, and the owners of the land, on the other hand, in such cases is pending adjudication before the Hon'ble Supreme Court. As

the things stand now, there can be no objection to construction of a building not exceeding 25ft from the ground level.

We, therefore, dispose of the Appeal as well as the writ petition itself, permitting the 1st respondent i.e. the writ petitioner to construct the building up to the height of 25ft from the ground, without any overhead vertical projections on the roof. If the adjudication that is pending before the Hon'ble Supreme Court leads to conferment of any additional rights to the 1st respondent, i.e. the writ petitioner, it shall be open to them to work out the remedies by instituting fresh proceedings.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-

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