

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22839 of 2013

Rajendra Prasad Yadav Son Of Late Banarasi Yadav Resident Of Mohalla- Khoja Bazar P.S.- Kasim Bazar District- Munger

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Secretary, Ministry of Urban Development Govt. Of Bihar New Secretariat Patna
3. The Secretary, Bihar State Power Holding Company Ltd. (Formerly Known As Bihar State Electricity Board) Null Vidyut Bhawan, Bailey Road Patna
4. The In Charge Public Grievance Redressal Forum, Munger
5. The Secretary, Power Grid Corporation of India Ltd., Patna
6. The District Magistrate, Munger
7. The Additional District Magistrate Cum In Charge District Public Grievance Cell, Munger
8. The Deputy Collector, Land Reforms, Sadar, Munger
9. The Circle Officer, Sadar, Munger
10. The Circle Inspector, Sadar, Munger
11. The Chairman, Munger Municipal Corporation
12. The Executive Officer, Munger Municipal Corporation
13. The Manager, Power Grid Corporation of India Ltd., the Lawn Fort Area, Munger
14. The Assistant Engineer, (DMS, Re) Power Grid Corporation Of India Ltd., The Lawn, Fort Area, Munger
15. The Assistant Engineer Electricity Supply Division Sadar, Munger
16. The Executive Engineer, Electricity Supply, Puraniganj, Munger
17. The Junior Electrical Engineer, Electricity Supply, Puraniganj, Munger

.... Respondent/s

Appearance :

For the Petitioner/s : Ms. Sushmita Mishra
For the State Mr. S.S. Khan, SC-25
For the P. G. Corporation Mr. J.P.Singh

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 19-09-2016

The writ application prays for a direction upon the respondents to remove the transformer/electric pole from the land of the petitioner situated in Khoja Bazar, Munger. It is alleged that the said electric pole/transformer was installed by the officers of the Bihar State Power Holding Company (for short ‘the BSPHC’) as well as the Power Grid Corporation of India Ltd. (for short



‘the Corporation’) without acquisition proceeding or approval from the department. In doing so the respondents have deviated from the approved site selected for installation of the electric pole/transformer. Annexure-2 has been referred in this regard which is the approved site for installation of the transformer/electric pole at Khoja Bazar, Munger. Annexure-14 is the communication addressed by the Junior Engineer of the respondent BSPHC to the Assistant Engineer stating that the distribution transformer should not be installed at the disputed site in view of the pendency of T.S. No. 164 of 1991. Annexure-15 is the communication of the Assistant Engineer of the Corporation addressed to the petitioner in which it has been stated that instructions have been received for removal of the electric pole from the land of the petitioner which shall be done in due course.

Heard Ms. Shushmita Mishra in support of writ application, Mr. Anand Kumar Oja for the respondent BSPHC and Mr. Janardan Prasad Singh for the respondent-Corporation.

Parties have exchanged pleadings.

Along with the counter affidavit, pictures of the site location of the pole with the transformer installed thereon has been enclosed. It is stated that a serious dispute with regard to the title of the land exists. Considering the public convenience the installation of pole/transformer has been made. The respondent is the licensee within the meaning of section 164 of the Electricity Act 2003. Under the relevant provision of the Telegraph Act, the respondent is authorized to install electric pole or the transformer for the general good of the people or the users, as the case may be. The location of the transformer is such which shall least obstruct the use of the land. The petitioner can only raise a grievance with respect to damage, if any, for which a forum is provided under the relevant law. Instead of doing so the writ jurisdiction of the Court has been

invoked. Similar stand has been taken by Mr. Janardan Prasad Singh, the counsel for the Corporation.

Indisputably, the pole and the transformer have been installed to provide electric connection to the users which is the statutory duty of the respondent BSPHC. That apart, the respondents have also disputed the right and title of the petitioner over the said land. For utilizing a minuscule part of the land for installation of the electric pole or the transformer, the owner thereof can claim damage. The owner can even request for shifting of transformer to an appropriate location or site for consideration of the respondent BSPHC. The communication(s) relied on by the petitioner would not cut much ice in the case in view of the statutory authority and obligation of the respondent. From the counter affidavit of the respondent-BSPHC, it is seen that the poles have been fixed on the extreme corner of the plot. If it is a Rasta then least obstruction shall be caused.

Considering the above, it shall not be an appropriate exercise of jurisdiction of this Court to grant the relief leaving the petitioner to agitate his claim before the appropriate authority/forum in accordance with law. If any such representation is filed for shifting of the pole/transformer, the same shall receive due consideration by the appropriate/competent authority of the respondent BSPHC.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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