

HIGH COURT OF CHHATTISGARH, BILASPUR

SA No. 655 of 2015

Rambishal Rathore S/o Late Chandu Rathore, Aged About 55 Years
Occupation- Practicing Advocate And Agriculturist, R/o Gourela
Road, Pendra, Distt. Bilaspur, Chhattisgarh

---- Appellant

Versus

1. Assistant General Manager, T. L. C. Power Grid Corporation Limited, Near Home Guard Camp Kududand, Tahsil- Bilaspur, Revenue & Civil District- Bilaspur, Chhattisgarh, U.D.S. Hospital, Dixit Nursing Home, Near Home Guard Camp, Kududand, Tahsil- Bilaspur, Revenue & Civil District- Bilaspur, Chhattisgarh
2. Satyawar Sahu, Senior Engineer, Power Grid Corporation Of India Limited, U.D.S. Hospital, Dixit Nursing Home, Near Home Guard Camp, Kududand, Tahsil- Bilaspur, Revenue & Civil District- Bilaspur, Chhattisgarh
3. Jafar Alam, Engineer & Manager, K.E.C. Office Home Guard Camp Lane, Kududand, Bilaspur, Chhattisgarh
4. Om Prakash Verma, Sub Divisional Officer, Revenue Pendra Road, District Bilaspur, Chhattisgarh
5. Station House Officer, Police Station Pendra, Civil & Revenue District- Bilaspur, Chhattisgarh
6. Collector & District Magistrate, District Bilaspur, Chhattisgarh
7. State Of Chhattisgarh, Through: Collector, Bilaspur, Chhattisgarh

---- Respondents

For appellant - Shri Yogendra Chaturvedi, Advocate.
For respondents No.1 & 2 – Shri Vivek Verma, Advocate.
For Respondent/State – Shri Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

5/02/2016

1. This appeal is against the judgment and decree dated 3rd August, 2015 passed by the Additional District Judge, Pendra Road, District Bilaspur in Civil Appeal No.43-A/2015 whereby the order dated 27/06/2015 passed by the Civil Judge, Class-II Marwahi in Civil Suit No. 2-A/2015 was affirmed on the ground that civil suit is not tenable.
2. Case of the plaintiff was that a suit for mandatory injunction was filed that at village Bhadoura land bearing khasra No.145/3 is owned by

the plaintiff/appellant. Respondents No.2 and 3 who are the employee of the Power Grid Corporation Limited were carrying out the transmission line and to their own whims they have diverted the line whereby transmission line was being carried out over the land of the plaintiff/appellant. It was stated that tower bearing No.118 was being installed over the land of the plaintiff without any notice against the sanctioned map.

3. In reply, after notice an application under Order 7 Rule 11 of CPC was filed and it was contended that Power Grid Corporation was exercising its power under Sections 4 & 10 of The Indian Telegraph Act, 1885 and the remedy has been provided under Sections 16 & 17 of the The Indian Telegraph Act and therefore they have to file an application before the Collector and the civil suit is not tenable.

4. Admittedly, the transmission line has been carried out over the land of the appellant. The Power Grid Corporation was carrying out the stretching of transmission line in exercise of power vested in it under The Indian Telegraph Act, 1885.

5. Section 7 of the Indian Telegraph Act provides that in case of a dispute by laying the line, it is to be referred to the Arbitration. This fact is not disputed that by notification dated 24.12.2003, the Power Grid Corporation was given the right to exercise the power vested in Telegraph Act. Section 17 of the Telegraph Act further provides that in case of a dispute of laying a line that dispute is to be referred in respect of compensation of the arbitration. Further the Works of Licensees Rules, 2006 have been made in exercise of power conferred under Clause (c) sub-section (2) of Section 176 read with sub-section (2) of Section 67 of the Electricity Act, 2003. Rule 3 of Works of Licensees Rules, 2006 gives the power to a licensee to carry out the works, Therefore, the Power Grid

Corporation having been allowed to carry out the work, the same could not have been arrested and the appellants have all the right for compensation.

6. Taking into statutory provision, in the considered opinion of this Court, the order of both the courts below cannot be faulted and no substantial question of law arises for consideration in this appeal. Accordingly, it is summarily rejected.

**Sd/-
(Goutam Bhaduri)
JUDGE**