

CWP No.3968 of 2014

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.3968 of 2014
Date of decision:04.05.2016**

Dakshin Haryana Bijli Vitran Nigam Ltd. and another ...Petitioners

Versus

The Permanent Lok Adalat and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. K.S.Malik, Advocate,
for the petitioners.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Jagjeet Singh Beniwal, Advocate,
for respondent No.2.

Rakesh Kumar Jain, J.

The petitioners have challenged the order dated 01.08.2013 passed by the Permanent Lok Adalat (PUS), Bhiwani by which application filed by respondent No.2 under Section 22-C of the Legal Services Authorities Act, 1987 has been allowed on the ground that before installation of electricity pole in the field of respondent No.2, the petitioners were required to take his consent and ordered that the electricity poles installed in the field of respondent No.2 be removed within 40 days from the date of the award.

At the time of notice of motion, learned counsel appearing on behalf of the petitioners had submitted that as per Section 164 of the

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Electricity Act, 2003 (hereinafter referred to as the “Act”), the petitioners have the power to erect electricity line for public purpose for which no show cause notice much-less hearing is necessary and it was also submitted that respondent No.2, at the most, can claim appropriate compensation in terms of Section 10 of the Indian Telegraph Act, 1885. Since 7 electricity poles were installed in the land of respondent No.2, the impugned order was ordered to be stayed, subject to deposit of ₹2 lacs by the petitioners. The petitioners deposited ₹2 lacs vide DD No.010898 dated 16.05.2014 drawn in the name of the Registrar of this Court.

Counsel for the petitioners has submitted that Section 164 of the Act does not provide for consent of the concerned person in whose land the electric pole has to be erected. He has supported his argument with the decision rendered by the Division Bench of the Allahabad High Court in the case of **Braham Singh vs. State of U.P. and others**, 2008(4) R.C.R. (Civil) 389 and a judgment of the Madhya Pradesh High Court in the case of **Vijay Ramchandra Agrawal vs. Power Grid Corporation of India Ltd. and another**, 2011(2) R.C.R. (Civil) 64.

On the other hand, counsel for respondent No.2 has submitted that there is no error in the order of the Lok Adalat which requires any interference by this Court. It is also submitted that a Water Works for supplying water to the villagers was constructed in village Baund Kalan. The Public Health Department applied for providing electricity connection to the said Water Works and the respondents gave contract to Ramesh Deswal of M/s JCB Project for installation of electricity poles/lines from

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Power House Sanjarwas to the said Water Works. It is alleged that respondent No.2 was told that the electricity poles were to be installed on the bank of the drain but those were installed through his field without his consent.

I have heard learned counsel for the parties and examined the available record.

Section 2(20) of the Act defines the electric line, which reads as under:-

“(20) “electric line” means any line which is used for carrying electricity for any purpose and includes-

- (a) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and
- (b) any apparatus connected to any such line for the purpose of carrying electricity.”

Section 164 of the Act provides for installation of electric line, which reads as under:-

“164. Exercise of powers of Telegraph Authority in certain cases:- The Appropriate Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communication necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under this Act, subject to such conditions and restrictions, if any, as the Appropriate Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885, any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.”

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The question, thus, involved in this petition is as to whether Section 164 provides for the consent of the land owner at the time of laying of transmission lines and electric towers?

A perusal of Section 164 of the Act shows that no such consent is required and in this regard, the judgments relied upon by the petitioners fully support their case. However, respondent No.2 is entitled to claim compensation for which the petitioners have already written letter No.3333 dated 26.03.2014, asking respondent No.2 to set up his claim so that he can be adequately compensated.

Thus, in view of the aforesaid facts and circumstances, the present petition is hereby allowed and the impugned order is hereby set aside. Respondent No.2 is at liberty to set up his claim for the purpose of compensation and in case the claim is filed by respondent No.2, the petitioners shall decide the same as early as possible, preferably within a period of 30 days after hearing respondent No.2. It is needless to mention that the amount of ₹2 lacs, lying deposited in this Court, shall be returned to the petitioners.

May 04, 2016
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(Rakesh Kumar Jain)
Judge