

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11658 of 2016

1. Sushil Kumar Ojha son of Late Ram Kumar Ojha
2. Sachida Nand Ojha son of Late Tarkeshwar Nath Ojha Both residents of Village Jamuwa, P.S. Behea, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the District Collector, Bhojpur, Ara
2. Superintending Engineer, Bihar State Electricity Supply Department, Bhojpur at Ara, District Bhojpur.
3. The Assistant Engineer cum S.D.O., Bihar State Electricity Supply Department Behea, P.S. Behea, District Bhojpur.
4. The Managing Director, South Bihar Power Distribution Company Limited, Patna (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kumar Mritunjay Narain, Adv.
For the Respondent/s : Mr. Sc3-Syed Arshad Alam

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 05-12-2018

The present writ petition has been filed for directing the respondents to remove the electric pole fixed on the land of the petitioners.

The learned counsel for the petitioners submits that the electric pole has been fixed illegally without the permission of the petitioners.

The learned counsel for the respondents Company submits that the electric poles have been fixed in pursuance of the schemes being run by the Government of India for rural electrification and the petitioners are acting in a malafide manner and are creating impediment in laying of the electric line, which is



for the benefit of the public at large. It has been further submitted that the problem created by the local villagers have been resolved by intervention of the local administration, hence nothing remains to be decided in the present case.

The learned counsel for the petitioners submits that at least the petitioners are entitled for compensation.

This Court is of the opinion that the present case is squarely covered by a judgment rendered by the Hon'ble Apex Court in the case of Power Grid Corporation of India Limited vs. Century Textiles & Industries Limited & Ors., reported in 2017(2) PLJR (SC)152, paragraphs no. 21 and 26 whereof are being reproduced herein below:-

“21. Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885, makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property. Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that the Telegraph Authority shall also be obliged to pay full compensation to all



person interested for any damage sustained by them by reason of the exercise of those powers.

“26. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the concerned District Judge for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated October 15, 2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines.”

Having regard to the facts and circumstances of the case, this Court has no option but to follow the law laid down by the Hon’ble Apex Court in the case of Century Textiles & Industries Limited & Ors. (supra).

Accordingly, the present writ petition is disposed of with liberty to the petitioners to avail the remedies as are available to them under the aforesaid judgment rendered by the Hon’ble



Apex Court in the case of Century Textiles & Industries Limited &
Ors. (supra) by way of claiming compensation.

The writ petition is disposed of on the aforesaid
terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.12.2018
Transmission Date	N/A

