

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12464 of 2016

1. Sanjay Kumar son of Late Rajendra Sharma.
2. Md. Rafiq Ansari, son of Md. Sattar Ansari, Both resident of Village+ P.O. Mahmadpur, P.S. Garkha, District Saran at Chapra.

... .. Petitioner/s

Versus

1. North Bihar Power Distribution Company Ltd. through its Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The General Manager, North Bihar Power Distribution Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, Chapra, Electrical Circle, Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary
For the Respondent/s : Mr. Vinay Kirti Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 05-12-2018

The present writ petition has been filed for commanding the respondents to shift the 11,000 Voltage of live wire passing over the residential house of the petitioner no.1 and just adjacent to the house of the petitioner no.2.

The learned counsel for the petitioners submits that the electric wire has been hanged without permission of the petitioners.

The learned counsel for the respondents has filed a counter affidavit and has submitted that no objection was raised by the petitioner at the time of laying of the wire. It is further submitted that the electric wire was laid about 20 years prior to the construction of the house and moreover the electric wire is passing by the side of the house and over the Asbestos shed. It is also submitted that about 9000 consumers are being benefited by the electricity in question and there is no alternative or feasibility for shifting the line.



The learned counsel for the respondents has relied upon a judgment of the Hon'ble Apex Court rendered in the case of Power Grid Corporation of India Limited vs. Century Textiles & Industries Limited & Ors., reported in 2017(2) PLJR (SC)152. The learned counsel for the respondents seeks to rely upon paragraph nos. 21 and 26 of the said judgments passed in the case of Century Textiles & Industries Limited & Ors. (supra), which are quoted 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 the consent of the parties with liberty to the petitioners to avail the remedies as available to them under the aforesaid judgment rendered by the Hon’ble Apex Court in the case of Century Textiles & Industries Limited & Ors. (supra) i.e. by way of claiming compensation.

The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.12.2018
Transmission Date	N/A

