

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2917 of 2017

Indrajeet Prasad Rai, Son of Late Ram Nihora Rai, Resident of village and Post - Dhamaum, P.S. Patori, District - Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Electric Department, Old Secretariat, P.S. Secretariat, District - Patna, Shri Pratya Amrit
2. The D.M. Samastipur, P.S. Muffasil Samastipur, District - Samastipur, Shri Pranav Kumar
3. The Executive Engineer, Electric Department, P.S. Dalsingarai, District Samastipur, Shri Rajesh Kumar
4. The Assistant Electric Engineer, Mohiudeen Nagar, District - Samastipur, Shri Imran Ansari
5. The S.D.O., Patori, P.S. Patori, District - Samastipur, Shri Rajesh Kumar
6. Junior Electric Engineer, P.S. Patori, Samastipur, Shri Hari Shankar Paswan

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Upendra Kumar Singh, Adv.

For the Respondents No.2,3 n& 5: Mr. Shrekant Sharan Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-12-2018

The prayer made by the petitioner in the present writ petition is for removal of the poles from his plot.

The learned counsel for the respondents Electricity Company, referring to the counter affidavit filed on behalf of the respondents, has submitted that the electricity line has been laid long back and the same cannot be removed and in this connection he has referred to the powers of the Telegraph Authority conferred under Sections 10, 15 and 16 of the Indian Telegraph Act, 1885.

The learned counsel for the respondent has referred to a judgement of 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 him 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)

Tiwary/-

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

