

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.42 of 2018

In

Civil Writ Jurisdiction Case No.14186 of 2015

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1. The Chairman- cum -Managing Director, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road Patna.
 2. The Managing Director, Bihar State Power Transmission Company Ltd. 4th Floor, Vidyut Bhawan, Bailey Road, Patna.
 3. The General Manager - cum - Chief Engineer, Tansmission Zone - II, Bihar State Power Transmission Company Ltd., Bhikhanpura, Muzaffarpur.
 4. The Electrical Superintending Engineer, Transmission Zone - II, Transmission Circle, Bihar State Power Transmission Company Ltd., Muzaffarpur.
 5. The Electrical Executive Engineer, Transmission Zone - II, Transmission Circle, Bihar State Powr Transmission Co. Ltd., Muzaffarpur.
 6. The Electrical Assistant Engineer, Transmission Zone - II, Transmission Circle, Bihar State Power Transmission Co., Ltd., Muzaffarpr.

... .. Petitioners

Versus

1. Ashok Kumar Singh, S/o Late Phuldeo Singh, Resident of Village - Ramtomaha, P.S. Minapur, District - Muzaffarpur.
2. The State of Bihar through the Principal Secretary, Department of Energy, Government of Bihar, Patna.

... .. Opposite parties

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar, advocate
For the Respondent/s : Mr. Yogendra Pd. Sinha, AAG-7

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL ORDER

5 10-10-2018

Heard learned counsel for the parties.

2. It is very unfortunate that the Bihar State Power Holding Company Limited instead of complying the order of this Court has filed this review petition giving a reason that they are only required to pay the crop compensation not the compensation of the land. Second point has been raised by the



Bihar State Power Holding Company Limited that the original petitioner should approach the Collector not the management.

3. It is an admitted fact that the petitioner-company has utilized the land of Khata No.27, Plot No.1614, area $3\frac{1}{4}$ decimal as well as Khata No.27, Plot No.1627, area $4\frac{1}{2}$ decimal for the purposes of establishing the electric pole of 220 K.V. transmission line and the petitioner has challenged the utilization of the land, which was not accepted by this Court but directed to pay compensation of land in view of the judgment rendered in the case of *The Power Grid Corporation of India Limited vs. Century Textiles & Industries Limited and Ors.* reported in *2017(2) PLJR (S.C.) 152*.

4. Learned counsel for the petitioner-company has tried to show that the judgment does not stipulates for payment of compensation of the land, only it says about the compensation of the crop. It is completely a misplaced and misguided submission in view of paragraph nos. 25 and 26 of the aforesaid judgment, which are as follows:-

“25. At this stage, we deal with the direction of the Division Bench regarding compensation payable to the writ petitioner, or for that matter to the State Government. In the first instance, no



such claim was laid by the writ petitioner in the writ petition or by the State Government before the High Court. Furthermore, the High Court could not have given this task to the District Collector; which is contrary to the provisions of Section 16(c) of the Indian Telegraph Act, 1885 which are extended to laying down of electricity lines. As per this provision, such an authority vests with the District Judge.

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.”

5. These paragraphs does not preclude the person to get compensation for the utilization of the land. If the lands of the citizen has been utilized for the public purpose, the citizen cannot be deprived of the compensation. If such a plea is



accepted then all lands acquired by different Governments for different projects such as for construction of National Highway or State Highway or for any other projects and if the citizen is said, not entitled to compensation, then it will be an absurd submission. Further, in the L.P.A. Court the petitioner-company has stated that some subsequent events have taken place and on that ground they have withdrawn the L.P.A. with a liberty to file review petition, but in fact none.

6. Learned counsel for the petitioner-company has submitted that the payment of compensation of crops has been made to the original petitioner, which has affirmatively been denied by learned counsel for the original petitioner. When there is direction for compensation of the land, then the petitioner-company was obliged to make payment of compensation of the land as per the market rate which is very well known to everyone, running its agency for doing commercial work or non-commercial work. If they do not know the rate of land they must take proper instruction and assistance from the respective Collectariat, they would be provided the details of rate of the area of the land, but instead of following this procedure, they have adopted a delay tactic, which is not acceptable to this Court.



7. Second point that has been taken that the petitioner should approach the Collector, but in paragraph no.25 of the judgment rendered in the case of *Century Textiles & Industries Limited (supra)* the Hon'ble Supreme Court has held that the Collector does not have jurisdiction to look into the matter of granting compensation. If the compensation is in lower side, then only the District Judge of the area concerned has jurisdiction. In the present case, no compensation of the land has been paid to the petitioner.

8. In such view of the matter, this Court does not find any error in the order apparent on the face or record. Accordingly, this review petition is dismissed.

(Shivaji Pandey, J)

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