

11th September,
2019

**Calcutta High Court
In the Circuit Bench At Jalpaiguri**

W.P.A.395 of 2019

(29)
(BD)

Smt. Sudipta Ghosh & others.

-vs-

District Magistrate, Darjeeling District and others

Mr. Chokila T. Bhutia,
Mr. Ashis Sinha,
... for the petitioner.

Mr. Ankur Gupta,
Mr. Sudipta Majumder,
... for respondents.

The petitioners claim to be absolute owners of the land at Naxalbari by reason of their names being reflected in the record of rights. The petitioners seek a direction on the District Magistrate, being the respondent no.1, to make an assessment of the damage caused by the respondent nos. 2 to 4 for construction of a high voltage transmission of electric lines across the land of the petitioners and to submit the said assessment report for payment of compensation by the respondent no.2, Teesta Valley Power Transmission Limited.

Learned counsel for the petitioners relies on a Notification of the Government of India, Ministry of Power dated 18th April, 2006 and Clause 3(2) of the said Notification which provides that without making an order under sub-rule 1, the District Magistrate or the Commissioner of Police as the case may be, shall consider the representations of the concerned persons and fix the

amount of compensation or of annual rent which should be paid by the licensee to the owner or occupier. The Notification was made in relation to the Works of Licensee Rules, 2006 and sub-rule 1, a licensee may be permitted to carry out works, etc. over or under any land wherever any electric supply line has not already been lawfully laid down with the prior consent of the owner of the land.

Learned counsel submits that a demand of justice was given to the District Magistrate and the respondent no.2 on 25th February, 2019 but has not been considered by the concerned respondent till date. The said demand of justice related to assessment for compensation for damage to the petitioner's land by construction of the high voltage electric line over the said land.

Learned counsel for the respondent nos. 2 to 4 submits that the matter can be disposed of with a direction on the District Magistrate to assess the compensation to be paid and that the respondent nos.2 to 4 are willing to pay whatever compensation may be assessed by the District Magistrate in terms of the Notification under Section 10(d) of the Indian Telegraph Act, 1885 dated 18th April, 2006 and upon offer made by respondent nos.2, 3, 4. This court deems it fit to dispose of the instant matter with a direction on the respondent no.1, namely, District Magistrate, Darjeeling to assess the damage caused to the petitioners' land by the

construction of the high voltage transmission line by the respondent nos.2 to 4 and report such assessment to the respondent nos.2 to 4 within a period of four weeks from the date of communication of this order. The respondent nos. 2 to 4 are directed to pay the compensation which is assessed by the District Magistrate in the said report to the petitioners within four weeks from the date on which the report has been served on the respondent nos.2 to 4. The compensation should reach the petitioners not later than 18.11.2019. The petitioners will be at liberty to take appropriate steps, if the direction given in this order are not carried out by the concerned respondent authorities.

W.P.A.395 of 2019 is disposed of in terms of the above.

(Moushumi Bhattacharya, J.)