

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21421 of 2019

Md. Jalaluddin Sk. & Ors.
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Zaiul Haque
... For the petitioners

Ms. Mitali Bhattacharya
... For WBSEDCL

Mr. Aritra Basu
Mr. Partha Banerjee
... For the Power Grid Corporation

The affidavit-of-service filed in Court is taken on record.

The petitioners say that the respondent no.3 has erected poles and has drawn high-tension electric line over their plots of land belonging to the petitioners. The standing crops (jute, garlic and sugarcane) cultivated by the petitioners were damaged when the poles were erected and line drawn. As a result thereof, the petitioners were given some compensation in the year 2018 only for damage caused to the standing crops. The petitioners allege that the petitioners have not received any compensation on account of the use of land for the purpose of erection of poles and drawing of high-tension electric line. The petitioners have made representation to the District Magistrate, Murshidabad on 30th September, 2019, but the

same remains pending. The petitioners, being aggrieved by such action, have filed the instant writ petition.

On behalf of respondent no.3, the Power Grid Corporation of India Limited, it is submitted that the petitioners have admittedly received compensation from the respondent no.3. In the event, the petitioners want the compensation to be increased, the petitioners have to file a proceeding before the District Judge in accordance with the statutory provision. The writ petition, therefor, according to the respondent no.3, is not maintainable.

The submission made by the respondent no.3 is disputed by the petitioner. The petitioners say that no compensation has been given for the use of the land by respondent no.3. The compensation that was granted is in respect of standing crops damaged at the time when the tower was erected and line drawn. The compensation for use of land has never been worked out and, as such, the question of payment of the same cannot and does not arise. The petitioners are, therefor, seeking the assessment of compensation and not increase of the compensation that has been awarded.

On behalf of West Bengal State Electricity Distribution Company Limited (hereinafter referred to as "WBSEDCL"), it is submitted that it is neither a necessary nor a proper party to the proceeding as the entire cause of the petitioners is as against the Power Grid Corporation (respondent no.3). WBSEDCL, therefor, prays for

expunging its name from the array of respondents in the writ petition.

After considering the respective submissions and the materials on record, I find that the matter is required to be sent to the concerned District Magistrate to ascertain (i) whether the compensation mentioned in the petitioners' representation dated 30th September, 2019 was only for standing crops or for use of land and standing crops? (ii) Have the petitioners being paid any amount on account of use of land. If so, what is the amount in respect thereof? (iii) In the event, the petitioners have not been paid any compensation on account of use of land, the same be computed by the concerned District Magistrate after affording a reasonable opportunity of hearing to the parties.

Since the petitioners have already made a representation on 30th September, 2019, the District Magistrate, Murshidabad, is directed to dispose of such representation by answering the three issues as indicated hereinabove, after giving reasonable opportunity of hearing to the parties. The entire exercise should be completed by the District Magistrate, Murshidabad, within four months from date. The District Magistrate, Murshidabad, shall pass a reasoned order and shall communicate the same to the parties within a period of seven days from the date of passing of such order.

Depending upon the findings of the concerned District Magistrate, the petitioners shall be free to take

further action irrespective of the fact that the instant writ petition is disposed of.

The petitioners shall communicate a copy of this order to the District Magistrate, Murshidabad (respondent no.2) who remains unrepresented.

All parties shall act on server copy of this order without insisting upon production of the certified copy.

Nothing remains further to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents. As the writ petition is disposed of, the prayer of WBSEDCL is not acceded to.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)