

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) No. 1655 of 2020

1. Umesh Kumar Mittal, S/o. Late Shri Laddu Gopal, Aged About 40 Years, R/o. Navapara, Gharghoda, P.S. Gharghoda, District Raigarh Chhattisgarh
2. Mukesh Kumar Agarwal, S/o. Late Shri Laddu Gopal, Aged About 38 Years, R/o. Navapara, Gharghoda, P.S. Gharghoda, District Raigarh Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Energy, Dau Kalyan Singh Building Ministry, Raipur, District Raipur Chhattisgarh. Now At Mantralaya Nawa Raipur, Atal Nagar, District Raipur Chhattisgarh
2. Chhattisgarh State Electricity Supply Transmission Company, Ltd., Through The Executive Engineer Bilaspur, District Bilaspur Chhattisgarh
3. Collector/ District Magistrate, Raigarh, District Raigarh Chhattisgarh
4. Sub Divisional Officer (Revenue), Gharghoda, District Raigarh Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Anuroop Panda, Advocate
For State/Respondents No.1, 3 & 4	:	Mr. Gagan Tiwari, Dy. Govt. Advocate
For Respondent No.2.	:	Mr. Jitendra Pali, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19.02.2021

Heard

1. The challenge in this petition was to the laying down the electricity line over the land of the petitioner.
2. Learned counsel for the petitioner submits that Section 10 of the Indian Telegraph Act, 1885 contemplates the authorities shall do as little damage as possible to the land of the person. Whereas in the instant case, the respondents have installed tower / laid down the line in the middle of the land, which is a diverted land and thereby the entire land has been rendered useless for any other purposes as no construction can be raised or any superstructure can exists. Consequently, the District

Judge while deciding the issue in exercise of power under sub-section 3 of Section 16 of the Telegraph Act should be directed to take into consideration the extent of damage done to the entire property.

3. For sake of brevity, Section 10 & 16 of the Telegraph Act are reproduced herein :

“10. Power for telegraph authority to place and maintain telegraph lines and posts .—The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along, or across, and posts in or upon, any immovable property:

Provided that—

(a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the [Central Government], or to be so established or maintained;

(b) the [Central Government] shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post; and

(c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority; and

(d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.—(1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code, 1860 (45 of 1860).

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3), or sub-section (4) shall be final:

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same."

4. Learned counsel for the respondents would submit that the cheque for the damage caused has assessed by the respondents, however, the petitioners have not accepted the same.
5. Since the petitioners have not accepted the amount and which raises the dispute, the petitioners may seek remedy under sub-section 3 of Section 16 of the Telegraph Act and if such application are filed, the District Judge in whose jurisdiction the property situates shall determine the

compensation on the basis of the evidence adduced by the parties. It is observed the acceptance of cheque for the compensation assessed shall not be treated to be final acceptance by the petitioners.

6. With such observation, the petition stands disposed off. The interim relief order dated 06.08.2020 shall stand vacated.

Sd/-
(Goutam Bhaduri)
Judge

Aks