

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5794 of 2021

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1. Mukesh Kumar Son of Bhola Singh Resident of Gorakhri, P.S. - Bikram, District- Patna
 2. Kamal Kishore Sharma Son of Ramanuj Singh Resident of Village-Gorakhri, P.S. - Bikram, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Energy Department, Government of Bihar, Patna
2. The Bihar State Power (Holding) Company Limited, Through its Managing Director, Vidyut Bhawan, Baily Road, Patna
3. The Bihar Grid Company Limited, Through its Managing Director, 2nd Floor, Alankar Place, Boring Road, Patna
4. The District Magistrate, Patna District- Patna
5. The Circle Officer, Bikram District - Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Niraj Kumar
For the Respondent/s	:	Mr.Lalit Kishore (Ag)
For the Bihar Grid Company Ltd.	:	Mr. Narendra Kumar Tiwari (Adv)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 30-11-2022 Heard the learned counsel for the petitioner and the Bihar Grid Company Limited.

The learned counsel for the petitioners has submitted that their land have been utilized by the respondents and Section 10(d) of the Indian Telegraph Act, 1885 provides for payment of full compensation to all persons for any damage sustained by them which is being caused by the respondents.

The learned counsel for the petitioner has also been relied upon the Judgment of *Power Grid Corporation of India*



Ltd., vs. Century Textiles & Industries Limited and others, 2017 (2) PLJR (SC) 152 and prayed that his application be also considered in the light of the aforesaid judgment.

Paragraph 21 and 26 of the judgment of the Supreme Court in the case of *Power Grid Corporation of India Ltd., vs. Century Textiles & Industries Limited and others, (supra)* reads as follows.

“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 considered the submission of the parties, it is directed that the petitioners will approach the District Judge, Patna by filing a compensation case under the Act and if such an application is filed before the District Judge, Patna, the same shall be decided by the District Judge, Patna within a year of its filing. If any of the parties doesn't co-operate in the matter, the District Judge, Patna will proceed ex-parte against the non-cooperating party.

With the aforesaid observations and directions, this application is allowed.

(Sandeep Kumar, J)

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