

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6857 of 2020

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Md. Jahir S/o Late Md. Reyajul Hak, Resident of Sumera, Noornagar, Post-Bara Sumera, Sumera urf Afzalpur, Madho, Police Station-Kudhni, District-Muzaffarpur, Bihar-843113.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Energy, Government of Bihar, Patna.
3. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
4. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Additional Collector, Muzaffarpur.
7. The Sub-Divisional Officer, Muzaffarpur West, Muzaffarpur.
8. The North Bihar Power Distribution Company Limited, Electricity Office of ESSEL, Ramdayalunagar, District-Muzaffarpur through its Chief Engineer.
9. The Executive Engineer Electricity, Essel Vidyut Vitran (Muzaffarpur) Pvt. Ltd., Office of ESSEL, Ramdayalunagar, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Fakhruddin Ali Ahmad, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7
		Mr. Rajeev Kumar Sinha, AC to AAG-7
		Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Anand Kumar Ojha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-



- a) To direct the respondents to remove Electric Pole and Transformer from the raiyati land of the petitioner appertaining to Sumera Afzalpur 329, Khata No.12, Khesra No.1656, Area-0.06 decimal situated at Village-Sumera, Noornagar, Afzalpur Sumera, P.S.-Kudhni, District-Muzaffarpur which has been installed without any prior consent or agreement in the year 2012.
- b) To direct the respondents to make compensation for utilization of petitioner's commercial land since 2012 till shifting of transformer on other public land.
- c) To direct the respondents to acquire the commercial land of the petitioner in the event they failed to shift the transformer from petitioner's land.
- d) To grant any other relief/ reliefs for which the petitioner is entitled under the facts and circumstances of the instant writ petition.

In the supplementary counter affidavit dated



02.02.2022, the respondents have *inter alia* taken the following stand:-

“5. That notwithstanding the above it is mentioned in the Letter No. 80 dated 25.01.2022 with enclosure of Letter No. 149 dated 14.10.2018 and Letter No. 119 dated 11.02.2019 that in case the Petitioner provides an alternative place, the same would be examined from technical and safety point of view and thereafter considering the same if it is feasible technically without causing any safety hazards, the site would be shifted for the transformer.”

In view of the same, and more so, considering the public health element, we are inclined to dispose of the present petition in the following mutually agreeable terms:-

(a) The respondent shall consider, rather favourably, taking a holistic view of the public health element in shifting the electric transformer presently installed on the petitioner's land;

(b) For such purpose, an Inspection Team, including that of local public representative(s), shall be constituted for identifying an alternative land;

(c) Also, the petitioner shall assist the Inspection Team in such process;



(d) We are hopeful that all remedial measures shall be taken by the authorities expeditiously and preferably within a period of two months from today;

(e) In so far as component of cost for shifting of the electric transformer is concerned, petitioner has already deposited a sum of ₹10,139/- and undertakes to bear all such cost, even if the electric transformer were to be shifted on a public land;

(f) Equally, it shall be open for the petitioner to donate his other land for the purpose of installation of the electric transformer;

(g) Technical feasibility and safety obviously has to be examined by the experts;

(h) Liberty reserved to the petitioner to initiate appropriate proceedings seeking appropriate relief for award of compensation, if any;

(i) We clarify that we have not expressed any opinion on this aspect;

(j) Also, liberty reserved to the petitioner to approach the Court, should the need so arise subsequently.

The petition stands disposed of in the aforesaid terms.



Interlocutory Application(s), if any, stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	10.03.2022
Transmission Date	

