

01
10.05.2022
TN

WPA No. 2423 of 2022

Salim Mondal
Vs.
Union of India and others

Mr. Rabi Sankar,
Mr. Sayan Chatterjee,
Ms. Payel Shome,
Mr. Rokon Ali,
Mr. Arabinda Maji

.... for the petitioner

Mr. Jishnu Chowdhury,
Mr. Partha Banerjee,
Mr. Aritra Basu

.... for the DVC

Mr. Supratim Dhar,
Mr. Dhananjay Nayak

.... for the State

The grievance of the petitioner is primarily that the District Magistrate concerned, by the impugned order No.2 dated January 11, 2022 passed in Miscellaneous Case No. 01L.A./Sqd.-II/22, proceeded on the premise that the valuation of an adjacent land belonging to a different person, that is, one Biswajit Sen, was to be relied upon for determining the value

of the petitioner's property, although the parameters differ in the case of the petitioner.

By placing reliance on a purported valuation by the Directorate of Registration and Stamp Revenue (the relevant portion annexed at page-35 of the present writ petition), it is argued that the market value of the petitioner's land-in-question is Rs.91,12,500/- in contrast to that of the land of Biswajit Sen, although the two lands might be adjacent to each other.

That apart, it is argued that since the entire land of the petitioner is virtually being rendered useless by the work undertaken by the DVC, while considering the compensation on the basis of valuation, the value of the entire land ought to be taken into account.

Hence, it is contended that the impugned order, which did not take into consideration such ingredients at all, ought to be set aside.

Learned counsel appearing for the DVC, by placing reliance on Section 16 Sub-Sections (1) and (4) of the Indian Telegraph Act, 1885 (hereinafter referred to as "the said Act") submits that the limited power of the District Magistrate is to ensure that the powers conferred on the Telegraph Authority (here, the Distribution Authority, that is, the DVC) are exercised

in accordance with law without any hindrance and, as per Clause 2(i) of the relevant Circular dated October 15, 2015, which contains the Guidelines for payment of compensation, to assess the land value. However, if the petitioner has any dispute in respect of the compensation granted to the petitioner, the latter has to approach the concerned District Judge within the purview of Section 16(4) of the said Act.

As such, it is contended that the matter may be relegated back to the District Magistrate for the limited purpose of re-assessing the land value, as empowered under Clause 2(i) of the October 15, 2015 Guidelines.

Upon a perusal of the yardsticks stipulated in the Guidelines dated October 15, 2015 (annexed at page-37 of the present writ petition), it is clear that the limited charter of the District Magistrate, vis-à-vis compensation, is to determine the land value for the purpose of calculation of the compensation at the rate of 85% as provided in the statute.

However, such compensation has to be calculated initially by the Transmission Company itself and, thereafter, in the event of a dispute being raised by the land-owner, by the concerned District Judge within the ambit of Section 16(4) of the said Act.

In the present case, however, the limited materials annexed to the writ petition indicate *prima facie* that there was a prior determination by the Directorate of Registration and Stamp Revenue to the effect that the market value of the petitioner's land is Rs.91,12,500/-, which was apparently different from the adjacent land belonging to Biswajit Sen, on whose land valuation the District Magistrate relied, for which the said issue has to be revisited by the District Magistrate upon considering the appropriate yardsticks as stipulated in the Guidelines.

Insofar as the compensation towards diminution of land value in the width of Right of Way Corridor is concerned, the same is contemplated, insofar as its modalities are concerned, in Clause 2(ii) of the Guidelines. However, the onus of assessing the same lies upon the Transmission Company initially, and thereafter, if a dispute is raised by the petitioner, then with the concerned District Judge under Section 16(4) of the said Act.

In such view of the matter and in the context of the reasons given above, WPA No.2423 of 2022 is disposed of by directing the District Magistrate and Collector, Purba Bardhaman, to re-determine the valuation of the petitioner's land-in-question for the purpose of calculating compensation within the

contemplation of the Guidelines dated October 15, 2015 issued by the Ministry of Power, Government of India.

While re-determining the same, the District Magistrate shall give an opportunity of hearing to the Transmission Company as well as the petitioner and/or any other interested persons, if there be any. Such re-calculation should be based on the materials produced by the parties, as indicated in Sub-Clause (i) of Clause 2 of the Guidelines dated October 15, 2015.

Upon such determination of the land value, the DVC shall calculate the compensation payable to the petitioner in the version of the DVC, also applying the criteria as enumerated in Clause 2 and its sub-clauses, of the Guidelines dated October 15, 2015. In the event the petitioner has any dispute in respect of such calculation, it will be open to the petitioner to move the concerned District Judge for a decision on such objection.

In view of the nature of the work being for public benefit, the District Magistrate, Purba Bardhaman is requested to re-decide the issue as expeditiously as possible, preferably within four weeks from the date of communication of this order to the District Magistrate, acting upon the server copy of this order, accompanied by the communication by the learned

Advocates appearing for the parties, without insisting upon prior production of a certified copy thereof.

It is made clear that the entitlement of compensation of the petitioner, if any, has not been entered into on merits by this court and it will be open to the authorities concerned to decide appropriately on such question in accordance with law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)