

January 04, 2022

ARDR

(6)

WPA 10320 of 2021

Samir Ghosal

Vs.

Union of India & Ors.

Mr. Gazi Faruque Hossain,
Mr. Himadri Kumar Mahata,
Ms. Priyanka Mondal,

...for the petitioner.

Mr. Piyush Chaturvedi,
Mr. Uttam Kumar Mandal,

...for the respondent nos. 2 and 3.

Mr. Phiroze Edulji,
Ms. Anamika Pandey,
Ms. Amrita Pandey,

...for the UOI.

Exception filed by the petitioner against the report filed on behalf of respondent Power Grid Corporation of India Limited is taken on record.

The contention of the petitioner is that the plots of land owned by the petitioner were used by the answering respondent the Power Grid Corporation of India Limited for construction of Jirat-Medinipur transmission line through the property. The respondent paid an amount of Rs.95,772/- to the petitioner by way of damage to the crops lying on the fields/property which were utilised for the project. The petitioner complains that the said work has permanently damaged the crops in plot nos. 751 and 1674 and an amount of Rs.9,000/- and Rs.48,000/- was granted by the respondent to the petitioner for the

damage caused in plot nos. 751 and 1674 respectively. But no compensation has been granted by the respondent to the petitioner for permanent damage caused to the land. The petitioner has referred to the recommendation for guidelines for payment of compensation towards damages in regard to the right of way for transmission lines issued by the Joint Secretary (Transmission) to the Chief Secretaries/all the States and Union Territories and other authorities on 15th October, 2015. The recommendation says that the compensation towards diminution of land value should be decided by the States subject to a maximum of fifteen per cent of the land value as determined based on Circle rate/Guideline value/Stamp Act rates. The petitioner prays for compensation in terms of the said recommendation with regard to the plots of land used by the respondent.

The respondent the Power Grid Corporation of India Limited submits that the Corporation acquired right of user over the petitioner's land in terms of Section 10(b) of the Indian Telegraph Act, 1885 and the petitioner has been paid a total sum of Rs.95,772/- towards damages for the installation work carried on over the petitioner's land. Learned counsel for the respondent submits that in the event the petitioner is aggrieved by the assessment of such

compensation, he is at liberty to approach the appropriate forum under Section 16(3) of the 1885 Act.

It is not in dispute that the installation work over the petitioner's land has been completed and the petitioner has been paid an amount of Rs.95,772/- towards damages for the same. The recommendation dated 15th October, 2015, referred to by the petitioner, indicates that it is only a recommendation issued for consideration of the States and Union Territories and it is submitted on behalf of the respondents that the State of West Bengal has not accepted the said recommendation. As such, the recommendation has no statutory force at present.

It is clearly envisaged in Section 10(d) of the Act of 1885 that in exercise of powers to install telegraph line or posts over any land, the authority should do as little damage as possible and pay full compensation to all persons interested for any damage sustained by them by reason of such installation. The authority has paid compensation to the petitioner in terms of the said provision of law.

The petitioner has heavily relied upon the recommendation dated 15th October, 2015 in submitting that besides damages paid to him by the authority, he is also entitled to compensation at the rate of fifteen per cent of the market value of the land.

But such recommendation not being accepted by the State, the respondent has no liability to abide by the same. In terms of the provisions laid down under Section 10(d) of the 1885 Act with regard to payment of compensation for any damage sustained, compensation has admittedly been paid to the petitioner by the Power Grid Corporation of India Limited.

Learned counsel for the respondent has placed reliance on a judgment in ***Power Grid Corporation of India Limited vs. Century Textiles and Industries Limited and ors.*** reported in ***(2017) 5 Supreme Court Cases 143*** passed on December 14, 2016. The said judgment demonstrates that in view of Section 164 of the Electricity Act, 2003, the Telegraph Authority/ Power Grid is not under obligation to obtain prior consent from or issue prior notice upon the owners of the land and has been empowered to lay telegraph lines through the land belonging to the owners on payment of compensation for damages caused therein on account of such work. However, in the case in hand, the petitioner has not alleged non-service of prior notice upon him.

The petitioner is primarily aggrieved with the compensation paid by the respondent and contends that the amount has been paid for damages done to

the crops on the land and not for permanent damage caused to the land itself. I am afraid Section 10(d) of the 1885 Act does not distinguish between payment of compensation for the land and damages caused to the land and the compensation payable in terms of said provision of law is “for any damage sustained”.

Section 16(3) of the 1885 Act is relevant. Section 16(3) says that in case of any dispute arising concerning sufficiency of the compensation to be paid under Section 10(d), either party to the dispute can approach the District Judge within whose jurisdiction the property is situate, for determination of such compensation. In view of the same, the petitioner is at liberty to approach the District Judge within whose jurisdiction the property is situate, for assessment of compensation if he is aggrieved by the amount of compensation paid to him or the determination of such compensation.

As the respondent has assessed the compensation in terms of Section 10(d) of the Act of 1885, the remedy of the petitioner lies before the appropriate forum and this Court, in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, cannot intervene in such assessment of compensation, there being alternative,

efficacious remedy available to the petitioner before the appropriate court.

In view of the above, the writ petition is devoid of any merit and is liable to be dismissed.

Accordingly, WPA 10320 of 2021 is dismissed. However, there shall be no order as to costs.

Urgent certified website copy of this order, if applied for, be furnished to the parties on usual undertakings.

(Suvra Ghosh, J.)