

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 11883 of 2022

Rumila Khatun
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Pratip Kumar Chatterjee
...for the petitioner

Mr. Sumit Ray
...for the WBSEDCL

Mr. S.K. Panja,
Mr. Sumit Ray
...for the WBSETCL

Learned counsel appearing for the petitioner contends that the petitioner sought for shifting of a 220V electricity line from the petitioner's property since the same was installed without taking prior consent of the petitioner. The petitioner is suffering due to the trees growing on the said property, which belong to the petitioner, being trimmed regularly by the WBSETCL (West Bengal State Electricity Transmission Company Limited) personnel for the purpose of maintenance of the said line.

When the petitioner's father was sent compensation, the same was only for a meagre amount of Rs.5,500/-, which cheque was not encashed by the petitioner or her father. Moreover, it is submitted that

the petitioner is the owner of the land-in-question and, as such, the compensation had to be paid in the name of the petitioner.

It is, however, submitted by learned counsel for the petitioner that, due to her financial condition, it will not be possible at all for the petitioner to meet the expenses of shifting charges, if the same has to be paid by the petitioner.

It is alternatively submitted on behalf of the petitioner that in the event shifting is not possible at all, the compensation must be assessed keeping in view the relevant factors, including the recurring loss suffered by the petitioner due to the trimming/cutting of the fruit-bearing trees of the petitioner, which otherwise yield income to the petitioner.

Learned counsel appearing for the WBSETCL submits that the line was electrified as long back as on January 25, 2016. The petitioner never took any objection at the time of installation or immediately subsequent thereto.

Upon an application being filed much later by the petitioner, the concerned District Magistrate relegated the same to the WBSETCL authorities. In any event, it is submitted that the law does not sanction that the cost of shifting has to be paid by any one except the person who will be benefited from such shifting and who wants such shifting.

Keeping in view the financial condition of the petitioner and the attending circumstances of the present case, it will be prudent if the appropriate authority, that is, the District Magistrate, Murshidabad is directed to decide the twin issues of assessment of shifting charges, alternatively to explore the possibility of increasing the compensation payable by the WBSETCL to the petitioner in lieu of costs and expenses and other losses suffered by the petitioner in a recurring fashion, as indicated above.

Accordingly, W.P.A. No. 11883 of 2022 is disposed of by directing the respondent no. 7, that is, the District Magistrate, Murshidabad, to decide the issues, as referred to above, upon giving adequate opportunity of hearing to the interested parties including the petitioner and/or her representative, the transmission company as well as other persons, if so interested.

The decision on such issues shall be taken by the District Magistrate in accordance with law as expeditiously as possible, preferably within eight weeks from the date of such reference to the District Magistrate.

The petitioner shall, directly or through her learned Advocate, communicate this order, along with a server copy thereof, to the respondent no. 7, upon which the respondent no. 7 shall implement the same

without insisting upon prior production of a certified copy thereof.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)