

AD-06
Ct No.09
21.11.2022
TN

WPA No. 18366 of 2022

Timir Baran Maity and another
Vs.
The Chairman, West Bengal State Electricity
Transmission Company Ltd. and others

Mr. B.P. Mondal,
Mr. Sukanta Mondal

.... for the petitioners

Mr. Sumit Kr. Panja,
Mr. Sumit Ray

.... for the WBSETCL

Mr. Nilotpal Chatterjee,
Mr. Sayak Chakraborty

.... for the State

Learned counsel for the petitioners contends that although the petitioners are entitled to compensation because of a high-tension transmission line having been taken over the plot of the petitioners by the West Bengal State Electricity Transmission Company Ltd. (WBSETCL), no such compensation has yet been awarded by the WBSETCL.

Learned counsel appearing for the WBSETCL submits, by placing reliance on an order dated May 04, 2016 passed by the Additional Chief Engineer, Kharagpur Field Zonal Office Transmission Project, WBSETCL, that the petitioners were given a hearing and upon hearing the views of both sides, the

Additional Chief Engineer was of the opinion that since removal of the tower on both sides of the plots as well as non-drawal of the conductor over the land is not possible at this stage and at the same time the demand of the land owner as to total market value of the whole plot as a compensation to her (mother of the petitioners) is also not tenable at all, hence her demand was rejected. At the same time, the WBSETCL was directed to advise KEC(I) Ltd. (the vendor of the construction of the transmission line) to pay necessary compensation, as per rule, to Smt. Sushila Bala Maity, the mother of the petitioners, for the damage actually to be made during drawal of the conductors between two towers on both sides of the plots.

It is, thus, submitted that the matter has already been decided upon and it is the vendor-in-question, who has been in charge of the construction of the towers and taking the transmission line, has been directed to pay compensation, if any, to the petitioners.

In the present case, however, since specific findings have been arrived at to the effect that the petitioners are not entitled to any compensation, since the nature of the petitioners' plot demands no such

compensation, such direction may not be given by the writ court.

Learned counsel also indicates that the matter was referred to the concerned District Magistrate who, however, referred the matter further to some other authority.

Upon considering the submissions of learned counsel for the parties, it is evident that the prayer of the petitioners for compensation in favour of the petitioners, the son of the original claimant Smt. Sushila Bala Maity, cannot be brushed aside. In fact, it is clear from the order of the Additional Chief Engineer, relied on by both parties, that the said official of the WBSETCL clearly arrived at the conclusion that the KEC(I) Ltd., the vendor of the construction of the transmission line, was to pay necessary compensation as per rule to the petitioners' mother (since deceased).

Since the said vendor company, at best, acted and has been acting as an agent of the WBSETCL for completing the latter's project, the liability inasmuch as the payment of compensation is concerned, cannot be shifted to its said agent by the WBSETCL, which is the principal.

Since the works are being undertaken for the WBSETCL, it is in any event open to the WBSETCL to

enforce any contractual liability against the vendor, their agent, if the said right is available to the WBSETCL in law, to recover any amount paid in lieu of compensation to the petitioners.

However, even the Additional Chief Engineer in his order has specifically come to the conclusion that necessary compensation is to be paid for the damage actually to be made during drawal of the conductors.

Moreover, since the valuation of a property is not restricted merely to its immediately calculable value but its market rate, taking into consideration the prospects and commercial potential of the property-in-question, we cannot restrict the claim of the petitioners at this juncture, without ascertaining the extent of the property for which compensation is payable, to be less than the total market value.

Be that as it may, it would be premature to decide on the issue of the compensation actually payable to the petitioners at this stage. However, it is clear that even if high-tension transmission line is taken over the property, several situations may arise for which the petitioners are entitled to compensation upon an appropriate calculation of the same.

In such view of the matter, the arguments of the WBSETCL cannot be accepted.

Accordingly, WPA No. 18366 of 2022 is allowed, thereby directing the WBSETCL to give a further opportunity of hearing to the petitioners and all concerned, including the relevant officials of the WBSETCL and the vendors of the transmission line, if necessary, and do the needful in accordance with law to immediately decide on the amount actually payable as compensation for drawing high-tension transmission line over the petitioners' property. Such entire exercise shall be completed as expeditiously as possible by the WBSETCL, preferably within two months from this date.

It is, however, made clear that this court has not entered into the question of quantum of the actual compensation, if payable, to the petitioners for the loss, if suffered by the petitioners due to the drawal of the high-tension transmission lines.

It will be open to the WBSETCL to decide the same in accordance with law.

It is also expected that immediately after such adjudication, if and as any amount of compensation is fixed for payment to the petitioners, the same will be disbursed expeditiously as well, preferably within a fortnight from the date of the decision.

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.)