

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17381 of 2015

***Odisha Power Transmission
Corporation Ltd.***

..... Petitioner

Mrs.Somalin Pattnaik, Advocate

-versus-

Sanghamitra Biswal and another

.... Opp. Parties

Mr. B.K.Mohanty, Advocate
(For Opposite Party No.1)

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
26.09.2022**

Order No.

15. 1. This matter is taken up through hybrid mode.
2. Odisha Power Transmission Corporation Ltd. (OPTCL) is the Petitioner in this writ petition, wherein it challenges the order dated 11th November, 2014 (Annexure-8) passed by learned District Judge, Cuttack in CMA No.214 of 2011 filed under Section 16(3) of the Indian Telegraph Act, 1885 directing payment of compensation of Rs.1.00 lakh to the Opposite Party No.1 for drawal of 132 KV HT line over her land.
3. Mrs. Pattnaik, learned counsel for the Petitioner made an elaborate submission with regard to power conferred on the authority to grant compensation for drawal of HT line over a private land. It is her submission that drawal of HT line does not itself make the owner of the land entitled for compensation. Owner of the land has to establish the loss he/she sustained for drawal of such electric line for grant of

compensation. It is her submission that no foundation work is done for erection of tower on the land of Opposite Party No.1. HT line is drawn at a height of 15 meters from the ground level. Thus, it causes no harm or harassment to the Opposite Party No.1 to perform her agricultural work in her land. Learned District Judge, while considering the matter also categorically observed that the Opposite Party No.1 could produce any material with regard to loss she has sustained due to drawal of HT line. However, observing that drawal of HT line over the cultivable land poses danger to the land owner and further the Opposite Party No.1 cannot convert the kism of the land to homestead/commercial use, directed the Petitioner to pay a sum of Rs.1.00 lakh as compensation.

4. Considering the observation made by learned District Judge, Cuttack, this Court, vide order dated 1st August, 2022, directed learned counsel for Opposite Party No.1 to address on the issue as to whether she is entitled to any compensation for any prospective loss to her. The provisions of the Telegraph Act do not give any scope for grant of compensation for any prospective loss to the land owner. In the instant case, the HT line is drawn over an area of Ac.0.06.5 kadi of land of Opposite Party No.1. Since she could not produce any material to make her entitled for compensation the impugned order under Annexure-8 is not sustainable and is liable to be set aside.

5. Mr. Mohanty, learned counsel for Opposite Party No.1 submits that the land in question situates adjacent to the main road from Cuttack to Choudwar. Thus, it has a potential value and the Opposite Party No.1 has purchased the said land with

a view to convert the same to be used as homestead/ commercial purpose and due to drawal of HT line over the said land, she would not be able to use the said land for the purpose for which it has been purchased. He further submits that drawal of HT line poses danger to the agricultural operation, as the Opposite Party No.1 cannot use drone or other equipments with advance technology for applying pesticides and fertilizers over the said land. The Opposite Party No.1 being a lady could not produce any material to that effect. However, if opportunity is given, she can produce material with regard to loss she has already suffered for drawal of the HT line. In view of the above, he submits that the writ petition is not maintainable. Learned District Judge although has not expressed the same in too many words, but the fact that the Opposite Party No.1 has sustained loss cannot ruled out. Hence, he prays for dismissal of the writ petition.

6. Taking into consideration the rival contentions of the parties, this Court finds that the HT line has been drawn over the agricultural land of Opposite Party No.1. However, the portion over which the HT line is drawn is not clear from the materials available on record. It is also submitted by Mr. Mohanty, learned counsel for Opposite Party No.1 that she being a lady could not produce materials in support of her case.

7. Award of compensation is not the matter of routine work. The person, who suffers loss, has to establish that he/she is entitled to compensation. In the instant case, learned counsel for Opposite Party No.1 submits that the land situates adjacent to the main road from Cuttack to Choudwar. She has purchased the land with a view to convert it to be used for

homestead/commercial purpose. However, no material to that effect either placed before the Collector, Cuttack or before learned District Judge, Cuttack to arrive at a conclusion that Opposite Party No.1 has, in fact, suffered any loss.

7.1 Mrs. Pattanik, learned counsel for the Petitioner rightly pointed out that the Opposite Party No.1 is not entitled to compensation for any prospective loss. She further submits when learned District Judge, categorically observed that she (Opposite Party No.1) could not produce any material in support of any loss sustained by her, no compensation should have been awarded.

8. In view of the discussions made above, this Court feels that the matter requires reconsideration by learned District Judge, Cuttack.

8.1 Accordingly, the impugned order under Annexure-8 is set aside and the matter is remanded back to learned District Judge, Cuttack to adjudicate the matter afresh. Parties are at liberty to adduce evidence in support of their respective claim before learned District Judge, Cuttack.

9. The amount deposited before this Court along with interest accrued thereon shall be returned to the authorized representative of the Petitioner on proper acknowledgement.

10. With the aforesaid observation and direction, the writ petition is disposed of.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge