

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13627 of 2016

1. Ganpati Jha @ Kari, Son of Late Bedanand Jha
2. Babu Saheb Jha, Son of Late Fudilal Jha
3. Subhnath Jha, Son of Late Jivachha Jha
4. Surendra Jha, Son of Late Sadanand Jha @ Mahant Jha
5. Dharmakant Jha @ Dharmu, Son of Late Sadanand Jha @ Mahant Jha All are resident of Mohalla - Mirjapur, P.O. Lalbagh, P.S. Town Darbhanga , District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Secretary Bihar State Power Transmission Com. Ltd., Patna, Vidyut Bhawan, Baily Road, Patna through its Managing Director.
3. The Managing Director, Bihar State Power Transmission Com. Ltd., Patna, Vidyut Bhawan, Baily Road, Patna.
4. The Chief Engineer, Transmission, Bihar State Power Transmission Com. Ltd., Patna, Vidyut Bhawan, Bailey Road, Patna.
5. The Superintendant of Electricity Department, Electric Supply Unit, Darbhanga.
6. The District Magistrate, Darbhanga.
7. The Assistant Executive Engineer, BSPTCL, Ramnagar, Darbhanga
8. M/s Vishal System Pvt. Ltd., 202, Emart Firdaus, Exhibition Road, Patna
9. Abhimanyau Kumar, the Engineer, M/s Vishal System Pvt. Ltd., 202, Emart Firdaus, Exhibition Road, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Yugal Kishore, Advocate
For the Respondent/s : Mr.Rajiv Roy- GP 1

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 04-04-2023

1. The present writ petition has been filed for directing the respondent- authorities to remove electric supply tower illegally constructed over the *raiya* land of the petitioners, appertaining to Khata no. 49 (old), new Khata



no. 193, Khesra no. 656 (old), new Khesra no. 1146, 1147, 1148 total area 59 decimal under mauza-Padri, Anchal Darbhanga, without either giving any notice to the petitioners or taking their consent.

2. The respondents have filed a counter affidavit stating therein that Electric Power Corridor passes through new survey plot No. 1146, 1147, 1148 situated in Mauza Parri, Anchal Darbhanga Sadar and 4 legs of electric power tower have been erected on survey plot No.1148 which is a Dhanhar land. For erection of power tower, 1-1/2 feet x 1-1/2 feet i.e. total 2.25 square meter of land for each tower leg has been used. The power tower so erected is 'A' category tower, which covers 20.83 feet x 20.83 feet i.e. total area of 433.88 sq. feet of Dhanhar land (agriculture) of survey plot No.1148. It is further stated that prior to construction of power tower, general notice was circulated in the area so that the land owners may claim compensation after producing papers of land falling under electric power corridor. Apart from the above, personal service of notice was also given to the writ petitioner but they refused to give any acceptance thereof. The learned counsel for the respondents has further submitted that there is no provision of acquiring any land under the provisions of the land Acquisition



Act for construction of Electricity Power Towers and only crop compensation is payable to the petitioner, which the respondent-Company is ready to pay but the petitioners are not ready to accept. The learned counsel for the respondents has relied upon a judgment rendered by the Hon'ble Apex Court in the case of ***Power Grid Corporation of India Limited vs. Century Textiles & Industries Limited & Ors.*** reported in ***2017(2) PLJR (SC)152***. The learned counsel for the respondents seeks to rely upon paragraph nos. 21 and 26 of the said judgment passed in the case of ***Century Textiles & Industries Limited & Ors.*** (*supra*), which are quoted herein below:-

“21. Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority to place and maintain a telegraph line under, over, along or across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885, makes it abundantly clear that while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property. Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that the Telegraph Authority shall also be obliged to



pay full compensation to all person interested for any damage sustained by them by reason of the exercise of those powers.

26. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit before the concerned District Judge for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines dated October 15, 2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said guidelines.”

3. The learned counsel for the petitioners does not dispute the position as is existing in law, hence, the petitioners pray for grant of liberty to agitate their grievances, elsewhere.

4. Having regard to the facts and circumstances of the case, the present writ petition stands disposed off with liberty to the petitioners to avail such other remedies as are provided for



under the law or as are provided for under the aforesaid judgment rendered by the Hon’ble Apex Court in the case of ***Century Textiles & Industries Limited & Ors. (Supra)***.

5. The present writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24.04.2023
Transmission Date	NA

