

4th May,
2023
(AK)
04

W.P.A 10001 of 2023

Sri Bapi Ghosh
Vs.
The State of West Bengal and others

Mr. Achyut Basu
Ms. Punam Basu
Mr. S. Bose
Mr. Anirban Saha
Ms. Pritha Biswas

...for the petitioner.

Mr. Sumit Kumar Panja
Mr. Sumit Ray

...for the WBSETCL.

Mr. Swapan Kr. Pal

...for the State.

Learned counsel for the petitioner argues that the West Bengal Electricity Distribution Transmission Company Limited, which is the added respondent, has completed construction of a high tension electric tower over the property of the petitioner, without any permission of the petitioner.

It is submitted that the Transmission Company has not even granted any compensation in favour of the petitioner till date.

Learned counsel for the Transmission Licensee submits that although the tower has been constructed on the petitioner's land, the stringing work of the high tension line has not yet been completed over such tower.

Be that as it may, in view of the added respondent being a Transmission Licensee within the contemplation of Section 164 of the Electricity Act 2003, Rule 3 of the Works of Licensees Rules, 2006, which applies to other licensees and exempts Transmission Licensees by virtue of sub-Rule (4) thereof, is not applicable to the present case.

What is applicable within the contemplation of Section 164 of the 2003 Act is Section 16 of the Indian Telegraph Act, 1885, sub-Section (4) of which says that if any dispute arises as to the persons entitled to receive compensation or as to the proportions in which persons interested are entitled to share in it, the authority may pay into the court of the District Judge such amount as he deems sufficient or where all the parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-Section 3, that amount.

However, in case of any dispute having arisen between the parties with regard to compensation, the District Judge, after giving notice to the parties and hearing such of them as he desires to be heard, shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

In such view of the matter, the petitioner is granted liberty to approach the concerned District Judge having

territorial jurisdiction over the property-in-question with the claim for compensation for damages, if any, caused by the Transmission Licensee on the property of the petitioner.

Upon such reference being made, the District Judge shall give an opportunity of hearing to the petitioner as well as the Transmission Company as well as others, if any, concerned and decide the entitlement of the petitioner as regards compensation in accordance with law, as expeditiously as possible, preferably within ten weeks after such application/reference is made by the petitioner to the District Judge.

WPA 10001 of 2023 is, accordingly, disposed of in the light of the above observations.

The parties as well as all concerned shall act on the written communication of the learned Advocates for the parties, coupled with server copy of this order, without insisting upon prior production of a certified copy thereof.

The report filed by the State be kept on record.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)