

11.10.2023
Item Nos.05
RP/PG
Ct. No.1

MAT 1958 of 2023
+
IA No.CAN 1 of 2023
Debabrata Sarkar & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Abhishek Halder
Mr. Swadesh Misra
Ms. Madhurima Basu
.....for the Appellants

Mr. Sumit Kumar Panja
Mr. S. Roy
.....for WBSETCL

Sk. Md. Galib
Ms. Tanwishree Mukherjee
..... for State

1. This intra-Court appeal is directed against the order dated 27th September, 2023 passed in WPA 23088 of 2023. The petitioners had approached the learned writ Court by contending that his homestead land has been affected on account of erection of a high tension electricity transmission tower through which the transmission lines are drawn. The learned Single Bench after considering the facts of the case, more particularly, that the project has already been implemented to the extent of 99% and the line was to be energized held that the petitioners will not be entitled to seek for shifting of the tower or the transmission line. However, the learned writ Court, in our view, rightly directed that steps should be

taken for grant of adequate compensation to the appellants/writ petitioners and for which an opportunity of hearing was directed to be granted to the appellants at the earliest, preferably within one month from the date of the order.

2. The learned advocate appearing for the appellants would vehemently contend that the provisions of Section 10(d) of the Indian Telegraph Act, 1885 has been given a go-bye and no order has been passed by the District Magistrate despite objections raised by the appellants. Further, it is submitted that in terms of the said provisions the Telegraph Authority shall do as little damage as possible and in the instant case the respondents cannot put to use a homestead land on account of transmission tower/line and if the tower was not erected and the lines were not drawn, the appellant could have even constructed a building consisting of G+4 floors on the said land.
3. All these contentions ought to have been raised by the appellants at the appropriate time and the appellants had grossly delayed the matter and after implementation of the work upto 99% and at the stage of energizing line the appellants/petitioners have approached the Court. Therefore, the learned writ Court rightly took into consideration the public interest involved in providing electricity for the entire

district pitted against the interest of the appellants/writ petitioners and declined to grant relief with regard to shifting of the transmission line.

4. In our view, there is no error in the observations made or the findings recorded by the learned Single Bench for us to interfere. However, as directed by the learned Single Bench a hearing was fixed on 9th October, 2023 but on account of pendency of this appeal, the appellants could not participate in the said hearing. The concerned authority of the respondent department is directed to fix a fresh date for personal hearing preferably in between 16th and 19th October, 2023 and the appellants shall be heard out on the said date and thereafter the claim for compensation shall be decided and a reasoned order be passed on merit and in accordance with law within a period of three weeks from the date on which the personal hearing is concluded.
5. In the result, the appeal and the connected application are dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)