

25th January,
2023
(AK)
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W.P.A 7611 of 2020
IA No: CAN 1 of 2020

Mirajul Islam and others
Vs.
The State of West Bengal and others

Mr. Md. Younush Mondal
...for the petitioners.

Mr. Piush Chaturvedi
Mr. Uttam Kumar Mandal
Mr. Victor Chatterjee
Ms. Maitree Roy
...for the Power Grid Corporation.

The present writ petition has been filed by the petitioners, who are local cultivators, being aggrieved with the compensation offered to the petitioners by the transmission licensee, that is, the Power Grid Corporation of India Limited.

It is contended by learned counsel that the amount offered to the petitioners is paltry. That apart, it is submitted that when the petitioners approached the respondent authorities, the said authorities gave the impression that the amount was not lying with them.

Learned counsel appearing for the Power Grid Corporation, while controverting the submissions made on behalf of the petitioners, submits that whereas the petitioners claim compensation pursuant to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,

the amount payable ought to be determined under Sections 10 and 16(3) of the Indian Telegraph Act, 1885.

Learned counsel further submits that the amount decided as compensation for the petitioners has already been deposited with the local Block Development Officer, that is, the BDO, Deganga Development Block and if the petitioners seek to get such amount, they have to approach the said authority with necessary documents for disbursal of the amount in the petitioners' favour.

Heard learned counsel for the parties.

In the present case, the petitioners have claimed compensation on the premise that the Power Grid Corporation installed some of its towers/took high-tension electricity lines over their lands, for which compensation is payable to the petitioners within the contemplation of Sections 10 and 16 of the Indian Telegraph Act, 1885.

Section 164 of the Electricity Act, 2003 applies the relevant provisions of the Indian Telegraph Act, 1885 to such cases as well.

Section 16(3) of the 1885 Act provides that if any dispute arises concerning the sufficiency of the compensation to be paid under Section 10, Clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

In the present case, the provisions of Sections 10 and 16 of the Indian Telegraph Act had been sought to be invoked by the petitioners by claiming compensation on the ground of alleged damages to their lands by the Power Grid Corporation.

Hence, there is no question of applying the provisions of the 2013 Act, at least without looking into the disputes of the petitioners on merits.

Since the Power Grid Corporation has specifically stated in its affidavit-in-opposition that the amount decided as compensation, that is, Rs. 25,522.59p. has already been deposited with the BDO, the petitioners, if they want a disbursal of such amount, have to approach the said authority with adequate documents.

However, since the petitioners also challenge the quantum of such compensation, it will be open to the petitioners to approach the concerned District Judge.

Accordingly, WPA 7611 of 2020 along with IA No: CAN 1 of 2020 are disposed of by granting liberty to the petitioners to approach the BDO, Deganga Development Block with necessary documents for disbursal of the admitted compensation amount which has already been deposited by the Power Grid Corporation with the BDO.

However, in the event the petitioners seek such disbursal and receive the amount so disbursed, the same will be without prejudice to the rights and contentions of the petitioners in any appeal, if preferred formally before

the concerned District Judge with regard to the quantum of compensation.

If so approached, the BDO, Deganga Development Block shall disburse the amount as expeditiously as possible, upon being satisfied with the propriety of the documents produced by the petitioners.

The petitioners shall be at liberty, in any event, irrespective of acceptance of the said disbursed amount from the BDO, to challenge the quantum of compensation decided to be granted to the petitioners before the concerned District Judge having territorial Jurisdiction in the area.

If so approached, the District Judge shall decide the issue in accordance with law, upon giving opportunity of hearing to all concerned, as expeditiously as possible without being influenced in any manner by any of the observations made herein on merits.

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.)