

25th January,
2023
(AK)
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W.P.A 7619 of 2020
IA No: CAN 1 of 2020

Md. Rafukul Islam Mallick
Vs.
The State of West Bengal and others

Mr. Md. Younush Mondal
...for the petitioner.

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 petitioner, who is a local cultivator, being aggrieved with the compensation offered to the petitioner 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 petitioner is paltry. That apart, it is submitted that when the petitioner 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 petitioner, submits that whereas the petitioner claims 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 petitioner has already been deposited with the local Block Development Officer, that is, the BDO, Deganga Development Block and if the petitioner seeks to get such amount, he has to approach the said authority with necessary documents for disbursal of the amount.

Heard learned counsel for the parties.

In the present case, the petitioner has claimed compensation on the premise that the Power Grid Corporation installed some of its towers/took electricity lines over their lands, for which compensation is payable to the petitioners within the contemplation of Section 16 of the Indian Telegraph Act, 1885.

Section 164 of the Electricity Act, 2003 applies the 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 petitioner on merits.

Since the Power Grid Corporation has specifically stated in its affidavit-in-opposition that the amount decided as compensation, that is, Rs. 9,083.85p. has already been deposited with the BDO, the petitioner, if they want a disbursal of such amount have to approach the said authority with adequate documents.

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

Accordingly, WPA 7619 of 2020 along with IA No: CAN 1 of 2020 are disposed of by granting liberty to the petitioner 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 petitioner seeks such disbursal and receives the amount, the same will be without prejudice to the rights and contentions of the petitioner 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 petitioner 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 petitioner 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.)