

19.03.2024
Item No.25
gd/ssd

MAT/2071/2023
IA NO: CAN/1/2023
ST. MARYS TECHONOLOGICAL
FOUNDATION AND ANR.
VS
THE WEST BENGAL STATE
ELECTRICITY TRANSMISSION
COMPANY LIMITED AND ANR.

Mr. Kallol Kumar Basu,
Mr. Utpal Das
..for the Appellants.

Mr. Sumit Kumar Panja,
Mr. Sumit Roy
..for the Respondents.

1. This intra court appeal by the unsuccessful writ petitioners is directed against the order dated 25.9.2023 in WPA 9943 of 2023.

2. In the said writ petition the appellants sought for a direction upon the respondents to place the high voltage electricity cable through and above their land is violative of Articles 30(1) and 30(1A) of the Constitution of India as the appellant is a minority institution. There were other related and allied prayers to the said main prayer.

3. The learned Single Bench by an elaborate order has dismissed the writ petition. Firstly, we need to point out that the appellants cannot confuse their rights available under Article 30(1A) of the Constitution qua the right of the Transmission Company to draw electricity lines or transmission cables over private or

public properties. The provisions of the Telegraph Act provide sufficient remedy which has rightly been noted by the learned Single Bench. Apart from that, the learned Single Bench has also noted the factual position that the electricity lines sought to be installed by the Transmission Company will be drawn at a height over 14.2 meters from the property and most of the property is a water body. That apart, the learned Single Bench has also made an observation that it will be open to the appellants to approach the concerned district court having territorial jurisdiction of the area for adequate compensation commensurate with the rights of the appellants after the work in question is complete.

4. Mr. Kallol Kumar Basu, learned advocate appearing for the appellants placed reliance on the decision in the case of *Seth Mafatlal Charity Trust v. Union of India* reported in *2016 SCC Online Gujarat 9445*. Even in the said decision the Bench noted that while exercising the power under the Act for the purpose of laying a line or installation of a line and deciding the route, normally, the court should not interfere with the exercise of discretion as the authorities are vested with such power in public interest.

5. However, in the said case the court took into consideration the factual position and passed certain

directions which were directed to be not treated as a precedent in future.

6. Therefore, the said decision can render no assistance to the case of the appellants.

7. The learned advocate for the appellants also placed reliance on the decision of the Hon'ble Supreme Court in the case of *Kerala State Electricity Board v. Livisha and Others* reported in (2007) 6 SCC 792. This pertains to the compensation which was payable with regard to the standing trees in the land which if they were cut down or in the diminution of the value of the land.

8. In our view, the said situation is yet to arise as on date as noted by the learned Single Bench.

9. Therefore, we find no good grounds to interfere with the order passed by the learned Single Bench.

10. Accordingly, the appeal fails and the same is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)