
(2020) 03 PAT CK 0062

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 11550 Of 2019

Rajdeep Yadav @
Rajdev Yadav

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision: March 5, 2020

Acts Referred:

Indian Telegraph Act 1885 " Section 10, 10(b), 10(d)

Citation: (2020) 03 PAT CK 0062

Hon'ble Judges: Mohit Kumar Shah, J

Bench: Single Bench

Advocate: Niraj Kumar, Yogendra Pd. Sinha, Rajeev Kr. Sinha, Ritesh Kumar

Final Decision: Disposed Of

Judgement

1. The present writ petition has been filed for issuance of appropriate writ/ order, especially in nature of mandamus, directing the respondent

authorities to stop the work of installation of transmission tower on petitioner's land till disposal of his objection and it has been further prayed to

direct the respondent no. 2 to make fair compensation amounting to Rs. 5 lakhs to the petitioner considering the loss of profit, due to substantial loss of

utility of the land for commercial as well as agriculture purposes for indefinite period, including present damage consequent upon the installation of

transmission tower over the petitioner's land.

2. The learned counsel for the respondent- Electricity Company has submitted that the tower installation work has already been completed and in

terms of the judgment rendered by the Hon'ble Apex Court, reported in 2017 (2) PLJR (SC) 152 (Power Grid Corporation of India Ltd., vs.

Century Textiles & Industries Limited and others), the respondent-Electricity Company cannot be forced to remove the transmission lines in question

and the only remedy available to the petitioner is to approach the learned District Judge concerned for compensation in accordance with law laid down

by the Hon'ble Apex Court in the aforesaid judgment rendered in the case of Century Textiles and Industries Ltd. (supra).

3. In this regard, it would be relevant to quote paragraphs no. 21 and 26 of the judgment rendered by the Hon'ble Apex Court in the case of

Century Textiles and Industries Ltd. (supra) hereinbelow :

“21. Section 10 of the Indian Telegraph Act, 1885 empowers the Telegraph Authority to place and maintain a telegraph line under, over, along or

across and posts in or upon any immovable property. The provision of Section 10(b) of the Indian Telegraph Act, 1885, makes it abundantly clear that

while acquiring the power to lay down telegraph lines, the Central Government does not acquire any right other than that of user in the property.

Further, Section 10(d) of the Indian Telegraph Act, 1885 obliges the Telegraph Authority to ensure that it causes as little damage as possible and that

the Telegraph Authority shall also be obliged to pay full compensation to all person interested for any damage sustained by them by reason of the

exercise of those powers.

26. These are sufficient reasons to allow Civil Appeal No. 10951 of 2016 preferred by the Power Grid by setting aside those directions. Ordered

accordingly. We make it clear that if the writ petitioner feels that it is entitled to any compensation, the appropriate course of action is to file a suit

before the concerned District Judge for this purpose. It would also be apt to point out at this stage that the Central Government has framed guidelines

dated October 15, 2015 in this behalf which inter alia provide that the issue of compensation may be resolved having regard to the mode and manner

of assessment of compensation as per the said guidelines. Therefore, it would always be open to the writ petitioner to avail the remedy as per the said

guidelines.

4. The learned counsel for the petitioner does not dispute the position as existing on facts as also in law and submits that the petitioner be granted

liberty to avail remedy provided for in the judgment rendered by the Hon'ble Apex Court in the case of Century Textiles and Industries Ltd.

(supra).

5. Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the parties, I deem it fit

and proper to dispose off the present writ petition with liberty to the petitioner to approach the concerned District Judge for grant of compensation.

At this juncture, the learned counsel for the petitioner submits that the Electricity Company be directed to pay interim compensation till the final

adjudication by the learned District Judge in the case to be filed by the petitioner herein. It is directed accordingly. For this purpose, the petitioner may

approach the respondent-Electricity Company by filing appropriate petition before the respondent no. 2 for grant of compensation, within a period of

four weeks from today and in case, such a petition is filed for grant of compensation, appropriate interim compensation shall be paid within a period of

six weeks thereafter, subject to the final outcome of the proposed case, to be filed by the petitioner before the concerned learned District Judge, for

award of compensation.

6. The writ petition stands disposed off on the aforesaid terms.