
(2007) 03 AHC CK 0181
In the Allahabad High Court

Braham Singh and Jitendra Kumar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 21-03-2007

Acts Referred:

Electricity Act, 1910 — Section 12, 51
Electricity Act, 2003 — Section 164, 67
Telegraph Act, 1885 — Section 10

Citation : (2007) 4 ADJ 52 : (2007) 3 AWC 2132 : (2008) 4 RCR(Civil) 389

Hon'ble Judges : Dilip Gupta, J;Anjani Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Anjani Kumar and Dilip Gupta, JJ.—The petitioners who are resident of village Titawi situate in Pargana Baghra, Tehsil Sadar, District Muzaffarnagar have filed this petition as they apprehend that the Power Corporation will install towers on their land for the purposes of High Tension 132 KV lines. Their contention is that the towers cannot be fixed on their lands in contravention of the provisions of the Electricity Act, 2003 (hereinafter referred to as the "Act").

2. We have heard learned Counsel for the petitioner and Sri Anil Mehrotra, learned Counsel appearing for the respondent Power Corporation.

3. Sri Anil Mehrotra, learned Counsel appearing for the Power Corporation has placed before us the provisions of Section 164 of the Act and the decision of this Court rendered in Deva Raj Vs. U.P. State Electricity Board, Lucknow and Others, and contended that such towers can be fixed as the provisions of Section 10 of the Telegraphs Act are applicable and all that the petitioners can claim is compensation for the damages sustained by reason of exercise of such power.

4. In Deva Raj (supra), a Division Bench of this Court examined the provisions of Section 51 of the Indian Electricity Act, 1910 which is similar to the provisions of Section 164 of the present Act of 2003 and observed that in view of the

notification issued by the State Government u/s 51 of the 1910 Act read with Section 10 of the Telegraphs Act, the Electricity Board did not have the power to locate towers on the land owned by a person.

5. The Madras High Court in *A. Subba Naidu Vs. Rajammal alias Thayammal*, while dealing with the powers u/s 51 of the Act of 1910 also observed:

From the above settled position of law, it is clear that when the Electricity Board exercises power u/s 51 of the Electricity Act read with Section 10 of the Telegraphs Act, they are not acquiring any land. They are only making use of the land for the purpose of laying electricity lines for which full compensation is given for the damage caused. It is also clear therefrom that no notice is required to the owner before laying the poles or constructing any tower, nor any consent is required from them.

6. The submission of the learned Counsel for the petitioners that in view of the provisions of Section 67 of the Act which is similar to Section 12 of the 1910 Act, the Power Corporation cannot lay down the power lines, cannot be accepted as the Division Bench of this Court in *Deva Raj (supra)* repelled this contention holding that Section 12 of the 1910 Act had no application in such cases.

7. Sri Anil Mehrotra, learned Counsel appearing for the Power Corporation has fairly stated that compensation as provided for under the Act shall be paid. We have no reason to doubt the said statement made by the learned Counsel appearing for the Power Corporation.

8. For the reasons stated above, there is no merit in this petition. It is, accordingly, dismissed.