

(2014) 12 P&H CK 0050
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 25627 of 2014

Lalit Diwan

APPELLANT

Vs

Haryana Bijli Vitran Nigam Limited and Others

RESPONDENT

Date of Decision : 23-12-2014

Acts Referred:

Constitution of India, 1950 — Article 19(f) 300A

Citation : (2015) 178 PLR 159

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : I.D. Singla, Advocate for the Appellant;

Final Decision : Dismissed

Judgement

K. Kannan, J.

1. There is no merit in a plea of the petitioner that the overhead lines cannot be drawn without acquiring the property. The enactments provide for acquisition as well, but there is no compulsion that the State acquires the property over which the overhead lines are drawn. The counsel's argument is that Article 300A of the Constitution declares that no property of person shall be acquired except by due process of law. This Article can hardly be invoked in a situation where there is no acquisition. The prayer in the writ petition, however, is that the property must be acquired and compensation be given. If there is no acquisition made, there is no question of paying compensation as well. However, the act of laying overhead wires is in the nature of compulsory licence and the provisions of the Telegraph Act and the Electricity Act, 1910 themselves provide for procedure for obtaining compensation for any act of the Electricity Corporation for exercising the right to lay overhead wires in the petitioner's property. The petitioner will have appropriate remedy under the respective enactments that provide for compensation for such compulsory licence and the prayer that the property shall be acquired and compensation to be paid is not in consonance with the scheme of the enactments that govern the issue. This Court had an occasion to dealt with

the same subject in *Kanwar Singh v. Union of India*, Ministry of Power and others, (2011-4)164 P.L.R. 65 where intervention was sought as regards laying overhead wires and it has held that such intervention will not be possible and the enactments provide a complete code for securing appropriate redressal. Dealing with requirement to acquire land, this Court has held as under: -

"There is no fundamental right to property after the abrogation of Article 19(f) and Article 300A provides for exercise of the right to property that cannot be deprived except by authority of law. If a law such as the Electricity Act and the Telegraph Act empower an appropriate government and the licensee to make use of the property for establishing electrical lines, there is no more right of an individual to demand of the public authority than a punctilious observance of the statutory provisions. The argument of the learned counsel for the petitioner that the poles for telegraph lines are thinner and/or small than the towers for electrical lines and hence, there could not be a power to install them without acquiring the property is not sound. The installation of the towers are statutorily protected as compulsory licence over the lands of persons where the installations are made and there is nothing inherently wrong about such power to install the lines."

Even as regards entitlement to compensation, the above decision itself shows the way that the right that could be exercised by the respective owner by demanding compensation shall, therefore, be in the manner provided under the Telegraph Act. The resort shall be under Sections 10 and 16 of the Telegraph Act.

2. The writ petition seeking for such relief is not competent and the writ petition is dismissed with the above observations.