

(2020) 09 PAT CK 0157

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6463 Of 2020

Pramod Mahto And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 11-09-2020

Acts Referred:

Indian Telegraph Act 1885 — Section 10, 16(4)
Constitution Of India, 1950 — Article 19(1)(f)

Citation : (2020) 09 PAT CK 0157

Hon'ble Judges : Sanjay Karol, CJ;S. Kumar, J

Bench : Division Bench

Advocate : Ram Shankar Das, Suraj Samdarshi

Final Decision : Disposed Of

Judgement

The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video

Conferencing from their residence.

Heard learned counsel for the petitioners and learned counsel for the State.

Petitioners have prayed for following reliefs:-

â??(A) To direct the respondent no.1 to hold independent enquiry other than the District Administration by constituting high level committee where in

complete collapse of Rule of Law demolished the houses/constructed building of the petitioners/ villagers on 13.06.2020 situated in village Sundarpur,

Kharauna under the District of Sheohar, The illegal action of the District Administration taken where the large No. 200 of police forces employed

calling from three different Districts with the help of Bulldozers, JCB Machines destroyed their house/under construction building, the 500 cement

bags, materials utensils etc. It is further to take proper action against erring officials where one Babulal Mahto brutally assaulted by dragging (ghasitte

hue) kept in SHEOHAR P.S. about 15 hours thereafter upon the protest of the villages left him for treatment & admitted in Sadar Hospital who was

kidney patient bearing urethra bag. The State authority are functioning in the state to protect the property of citizen within article 19(1) (f) of

constitution where attitude of the District Administration destroyed/damaged the property of the petitioners without any legal authority so that

trespasser power greed Mithlanchal transmission ltd. Never be protected by law where going to erect a 400 KV/DC transmission line running from

the land of the petitioner passing across the house of the petitioners situated in village Sundarpur, Kharauna under the District of Sheohar, so that

further works started after demolishing the houses may kindly be stay from the lands of the petitioners.

ii. To direct the respondent no. 1 to restore possession and to make thorough enquiry for illegal unauthorised action removal of the constructed houses

by district administration where the administration of the justice is sought to be abused without valid procedure without information/notice demolished

the houses of the petitioners where they were living with their families earlier photographs annexed in the said earlier PIL.

iii. To direct the State Government to pay compensation of such damages about Rs. 50 lakh approx after proper evaluation of the building/materials

etc. and further to take proper action against erring officials who are in connivance of the private contractors demolished houses by complete collapse

of Rule of Law without authority of law.â??

Petitioners claim to have purchased the land between 2013 to 2019 upon which they have constructed their house and residing with their family.

Power Grid, Mithalanchal Transmission Ltd. is to erect 400 KV/DC electric line over the Sundarpur Kharauna village within the district and circle

Sheohar where the petitioners are residing. Corporation is to construct 400 KV/DC Sitamarhi-Motihari transmission line. The Circle Officer, Sheohar

has stopped the new construction of their residence with the help of Engineers/officers of corporation and the land of petitioners are situated in the

east of main road of Sheohar, Minapur and five persons have already constructed their house and rest are going to construct and same has been

stopped.

Chief Manager of Corporation had written a letter dated 28.12.2019 to petitioners for helping in construction of 400 KV double circuit line. There is no provision for land acquisition but compensation is awarded during course of electric line fitting and tower erecting and same is to be made after proper verification of beneficiaries. Chief Engineer also assured that if any damage is made during course of construction, compensation is paid to the affected persons. Petitioners had earlier also moved this Court in C.W.J.C. No. 4806 of 2020 and after hearing the parties, same was disposed of with liberty to petitioners to represent before the Power Grid Corporation who shall consider and decide the representation within three months.

Petitioners filed their written representation on 09.03.2020 and by order dated 20.06.2020 same was disposed of by respondent no. 9 in terms of judgment of Supreme Court which has held that Power Grid Corporation can lay down the transmission lines over/across/under the property and affected persons are entitled for compensation under the Telegraph Act.

Counter affidavit has been filed on behalf of respondent no. 9 stating therein that the District Administration facilitated respondent no. 9 to lay foundation of the transmission line Darbhanga Sitamarhi (New 400 KVD/C line and Sitamarhi (New) â?"Motihari 400 KVDC line. Petitioners are individually affected by the action of respondent authorities for which they have a statutory remedy under the Telegraph Act, 1885 as per the law laid down by the Honâ??ble Apex Court. Respondent Corporation is authorised to lay the over head wires/transmission line and install wire posts for laying across such wire, over or under any immovable property as per Section 10 of the Indian Telegraph Act, 1885. Telegraph authority shall do as little damage as possible and when it has exercised such powers in respect of any property it shall pay full compensation to all affected persons for any damage sustained by them by reason of exercise of such power. Section 10(b) clearly stipulates that the government shall not acquire any right other than that of user in the property under, over along, across in or upon which the telegraph authority places any telegraph line or post.

The Apex Court has conclusively decided in case of Power Grid Corporation of India Ltd. Vs. Century Textile and Industry Ltd. 2017 (5) SCC 143

that prior consent of the land owner is not required for construction of the

transmission line by the telegraph authority and with regard to compensation the persons aggrieved may approach the authority specified under the Section 16(4) of Indian Telegraph Act, 1885 i.e. the District Judge.

It has been further submitted that route/survey/alignment for construction of abovementioned transmission line was carried out and approved way

back in the year 2018 and at that point of time there was no sign of any structure much less permanent structure available at location. Out of total

number of towers i.e. 225, 224 towers were completed and as such the route alignment which was approved could not have been altered.

After hearing the parties and considering the materials available on record, this Court does not find any public interest involve in this writ petition and

remedy to affected person including petitioner is provided under the Act to approach the District Judge for grant of adequate and proper compensation

under the Telegraph Act, 1885.

Writ petition is accordingly, disposed of.