
(2016) 09 PAT CK 0004

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.22839 of 2013

Rajendra Prasad Yadav

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 19-09-2016

Acts Referred:

Citation : (2017) 1 PLJR 44

Hon'ble Judges : Mr. Kishore Kumar Mandal, J.

Bench : Single Bench

Advocate : Ms. Sushmita Mishra, Advocate, for the Petitioner; Mr. S.S. Khan, SC-25, for the State; Mr. J.P. Singh, Advocate, for the P.G. Corporation

Final Decision : Disposed Off

Judgement

Mr. Kishore Kumar Mandal, J.(Oral) - The writ application prays for a direction upon the respondents to remove the transformer/electric pole from the land of the petitioner situated in Khoja Bazar, Munger. It is alleged that the said electric pole/transformer was installed by the officers of the Bihar State Power Holding Company (for short ?the BSPHC?) as well as the Power Grid Corporation of India Ltd. (for short ?the Corporation?) without acquisition proceeding or approval from the department. In doing so the respondents have deviated from the approved site selected for installation of the electric pole/transformer. Annexure-2 has been referred in this regard which is the approved site for installation of the transformer/electric pole at Khoja Bazar, Munger. Annexure-14 is the communication addressed by the Junior Engineer of the respondent BSPHC to the Assistant Engineer stating that the distribution transformer should not be installed at the disputed site in view of the pendency of T.S. No. 164 of 1991. Annexure-15 is the communication of the Assistant Engineer of the Corporation addressed to the petitioner in which it has been stated that instructions have been received for removal of the electric pole from the land of the petitioner which shall be done in due course.

2. Heard Ms. Shushmita Mishra in support of writ application, Mr. Anand Kumar

Oja for the respondent BSPHC and Mr. Janardan Prasad Singh for the respondent-Corporation.

3. Parties have exchanged pleadings.

4. Along with the counter affidavit, pictures of the site location of the pole with the transformer installed thereon has been enclosed. It is stated that a serious dispute with regard to the title of the land exists. Considering the public convenience the installation of pole/transformer has been made. The respondent is the licensee within the meaning of section 164 of the Electricity Act 2003. Under the relevant provision of the Telegraph Act, the respondent is authorised to install electric pole or the transformer for the general good of the people or the users, as the case may be. The location of the transformer is such which shall least obstruct the use of the land. The petitioner can only raise a grievance with respect to damage, if any, for which a forum is provided under the relevant law. Instead of doing so the writ jurisdiction of the Court has been invoked. Similar stand has been taken by Mr. Janardan Prasad Singh, the counsel for the Corporation.

5. Indisputably, the pole and the transformer have been installed to provide electric connection to the users which is the statutory duty of the respondent BSPHC. That apart, the respondents have also disputed the right and title of the petitioner over the said land. For utilizing a minuscule part of the land for installation of the electric pole or the transformer, the owner thereof can claim damage. The owner can even request for shifting of transformer to an appropriate location or site for consideration of the respondent BSPHC. The communication(s) relied on by the petitioner would not cut much ice in the case in view of the statutory authority and obligation of the respondent. From the counter affidavit of the respondent-BSPHC, it is seen that the poles have been fixed on the extreme corner of the plot. If it is a Rasta then least obstruction shall be caused.

6. Considering the above, it shall not be an appropriate exercise of jurisdiction of this Court to grant the relief leaving the petitioner to agitate his claim before the appropriate authority/forum in accordance with law. If any such representation is filed for shifting of the pole/transformer, the same shall receive due consideration by the appropriate/competent authority of the respondent BSPHC.

7. The writ application is disposed of.