

**Court No. - 21**

**Case :-** WRIT - C No. - 29932 of 2016

**Petitioner :-** Rajveer Singh Yadav

**Respondent :-** Union Of India And 3 Ors.

**Counsel for Petitioner :-** Akank Kumar Jain

**Counsel for Respondent :-** C.S.C.,A.S.G.I.,Naresh Chandra Nishad,Pratik J. Nagar

**Hon'ble V.K. Shukla,Acting Chief Justice**

**Hon'ble Mahesh Chandra Tripathi,J.**

Rajveer Singh Yadav is before this Court with request to issue a writ, order or direction in the nature of mandamus commanding the respondent nos. 2 and 3 not to establish high tension electrical tower on his agricultural land bearing Khata No.295 area 1.3370 hec. situated at Village Ekthara, Tehsil and District Agra and to decide his representation dated 28.1.2016.

Petitioner claims to be bhumidhar of Khata No.295 area 1.3370 hec. situated in Village Ekthara, Tehsil and District Agra and the said property is agricultural land. It is alleged that the respondent nos. 2 and 3 are erecting/establishing the high tension electrical tower on the said land without adopting due process as provided under the Works of Licensees Rules, 2006 and Electricity Act, 2003. They have not acquired the land for erecting the transmission lines. The petitioner has approached to the District Magistrate, Agra and the General Manager, Thermal Power Corporation Limited, Agra for ventilating his grievance vide representation dated 28.1.2016 but the respondents are adamant to take possession of the petitioner's land forcibly.

The claim of the petitioner has been opposed by Shri J. Nagar, Senior Advocate assisted by Shri Pratik J. Nagar, Shri Naresh Chandra Nishad and Shri Mukteshwar Upadhyay, appearing for the respondents.

In **Deva Raj Vs. U.P. State Electricity Board, Lucknow & Ors.**, AIR 1977 Allahabad 452, a Division Bench of this Court had examined the provisions of Section 51 of the Indian Electricity Act, 1910, which is similar to the provisions of Section 164 of the Electricity Act, 2003 and observed that in view of the notification issued by the State Government under Section 51 of the 1910 Act read with Section 10 of the Telegraphs Act, the respondents have the power to instal the towers on the land owned by a person.

Similarly the Madras High Court, in **E. Venkatesan & Ors. Vs.**

**Chairman, Tamil Nadu Electricity Board, Madras & Ors.,**  
AIR 1977 Madras 64 while dealing with the powers under  
Section 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 under Section 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."

This Court, in Writ C No.29995 of 2016 (**Pooran Singh and 30 others vs. State of UP and 3 ors**) decided today, has observed that the construction of transmission power service lines cannot be stopped for want of payment of compensation. However, an appropriate direction can be issued to the competent authority for determining the compensation in accordance with law and pay the same to the tenure holders over whose land the towers are being erected.

We accordingly dispose of this petition, with liberty to the petitioner to move an appropriate application before the concerned District Magistrate with regard to his claim alongwith certified copy of this order and other supported materials, whereupon the District Magistrate shall pass appropriate orders on the claim of the petitioner in accordance with law within three months from the date of production of a certified copy of this order.

**Order Date :- 5.7.2016**

RKP