

HIGH COURT OF MADHYA PRADESH**WP No.8077/2016**

**Smt. Geetabai Vs. M.P. Paschim Kshetra Vidyut Vitaran
Co.Ltd & Ors.**

Indore, Dated: 31.07.2018

Shri.A.N. Yadav, learned counsel for petitioner.

Shri P.Prasad, learned counsel for respondent No.1.

Ms.Anita Sharma, learned counsel for respondent
No.2.

Shri Rahul Sethi, learned counsel for respondent
No.3 and 4.

Heard.

By this writ petition the petitioner has prayed for a direction to restrain the respondent No.1 from laying down the high tension electricity line from above the house and open land of the petitioner in Survey No.530/2, Village Kailod Karthal, Tehsil & District, Indore. The petitioner has also prayed for a direction for awarding the compensation under the provisions of National Highways Act, 1956 and u/S.10(d) read with Sec.16(3) of the Indian Telegraph Act, 1885 for making the house and the land unusable.

In nutshell the petitioner's case is that the petitioner is the owner of the land in Survey No.530/2 and the house situated thereon and the respondent No.1 was trying to lay the high tension line over the land of the petitioner which was resisted by the petitioner, but the respondents without paying any compensation had proceeded with the impugned action.

Learned counsel for petitioner submits that the

respondents by laying the high tension line over and above the land and house of the petitioner has made it unusable, therefore, the petitioner is required to be paid the compensation.

The respondents have opposed the writ petition.

Learned counsel for respondent No.1 has pointed out that the work of laying the high tension line has already been completed. Hence, the only surviving issue is of payment of compensation in case if the petitioner is entitled for the same.

Learned counsel for State has also raised a plea before this court that the land has already been acquired by the State.

Having heard the learned counsel for parties and on perusal of the record, it is noticed that in respect of the land in Survey No.530/2, the land acquisition proceedings were taken up under the provisions of Land Acquisition Act and the award dated 28/12/1990 was passed which has been enclosed as Annexure R-2/1 along with the reply of the respondent No.2. The said award clearly reflects that the land in Survey No.530/2 has already been acquired.

Learned counsel for respondent No.2 has pointed out that after acquisition land has been given to the respondent No.2 for constructing the national highway. Hence, if the respondent No.1 is laying the high tension line on the land which has already been acquired, then the petitioner is not entitled for any compensation for the same. However, if the high tension line has been laid on the land which still

belongs to the petitioner, then the petitioner has a remedy of approaching the competent authority under Rule 3(2) of the Works of Licensees Rules, 2006.

Learned counsel for respondent No.1 has also not disputed that the petitioner's claim relating to compensation is to be examined by the competent authority in terms of Rule 3(2) of the Rules of 2006 in case if the petitioner is still the owner thereof.

Hence, the present writ petition is disposed of with liberty to the petitioner to file an appropriate application before the competent authority under Rule 3(2) of the Rules of 2006 and established his claim for compensation in accordance with law.

c.c as per rules.

(PRAKASH SHRIVASTAVA)
Judge

vm