

MHBU040001492015



Order below Exh.09
(Passed on 08/02/2024)

Present application has been filed by the non applicant under Order 7, Rule 11 r/w Section 151 of the Code of Civil Procedure.

2. The applicant filed his say overleaf the application and strongly opposed the application. It is contended that the plaint cannot be rejected without adjudicating the question of court fees. This court comes to conclusion that it is necessary to pay court fess then opportunity to pay court fees must be granted. Hence, requested to reject the application.

3. The learned advocate for non applicant Mr. Anil Sardar has relied upon the case law- **Maharashtra Electricity Regulatory Commission, Case No.197/2020 Ms. Varsha Anil Sable & 3 others V/s. Maharashtra Eastern Grid Power Transmission Company Limited decided on 22.3.2021**, in which the Hon'ble Coram observed that "MEGPTCL in the past for RoW, disputes related to same transmission project RoW, as in the present matter, in case No.60/2016 (Shri Dilip

Bhikaji Dete V/s. MEGPTCL, respondent in the present case order dated 19 December, 2016) and in Case No.67 of 2015 (Shri Uttam Baburao Cheke V/s. MEGPTCL, order dated 5th February, 2016) as appeared before the commission as a respondent. These said cases were filed as per Section 67 of the EA 2003 and MEWLR 2012 by the affected land owners. MEGPTCL has also made the submission on affidavit stating that the Rule 13 of the MEWLR 2012, provides that, if the amount of compensation is not mutually agreed between the parties, then it shall be determined by the District Collector or any officer authorized by the State Government.

4. Heard the learned advocates Mr. Anil Sardar for the non applicant and Mr. D.V. Deshmukh for the applicant. Perused the record and proceeding and the case law cited by the non applicant.

5. The applicant came with the case that the non applicant has laid the electricity transmission line through his land Gat No.117 admeasuring 4H, 04R out of this 1H 42 R land situated at Mouje Ganeshpur, Tq. Khamgaon, Dist. Buldhana. For this purpose the non applicant has granted inadequate compensation of Rs.1,19,000/-. Being aggrieved by such inadequate compensation the applicant has knocked the door of this Court for determination of appropriate compensation. According to applicant as per Section 16 of the Indian Telegraph Act r/w sec.164 of Electricity Act, this Court has jurisdiction to entertain the present dispute.

6. According to non applicant, the present application on the sole ground that the dispute raised by the applicant is required to be adjudicated by the District Magistrate. Therefore, this Court has no jurisdiction to entertain and try the present application.

7. After perusal of the citation relied by the non applicant, it is very much clear that the observation of the Hon'ble Maharashtra Electricity Regulatory Commission in Para No.17.26 are pertaining to Section 67 of the Electricity Act, 2003 and the Rule 13 of MEWLR 2012. Whereas, the case in hand is relating to section 16 of the Indian Telegraphic Act r/w Section 164 of the Electricity Act. Therefore, the observation in the cited case is not applicable to the case in hand.

8. Section 10(d) and section 16(3)(4)(5) reads that the District Judge is empowered to deal with the application u/s 16 of the Indian Telegraphic Act.

9. In the light of above reason and discussion, I held that this Court has jurisdiction to deal with the application u/s 16 of the Indian Telegraphic Act. Therefore, I do not find merits in the application Exh.9 hence, I pass the following order :-

ORDER

1] The application Exh.9 is hereby rejected.

Sd/-
(G.B.Jadhav)
District Judge-1, Khamgaon,
Dist.Buldhana.

Dt.08/02/2024

MJC No.3/2015
Shamabi Shaikh Nabi
V/s.
Mah.Eastern Grid Power Transmission Co.Ltd.

Certificate

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno : Mrs.Nishat Anjum Mohd.Rafique.

Name of Court : District Judge-1, Khamgaon, Dist.Buldhana.