

SUPREME COURT OF INDIA

Bihar State Electricity Board

Vs.

Prabha Aggarwal

C.A.No.128 of 2000

(S. B. Majmudar and D. P. Mohapatra, JJ.)

10.01.2000

ORDER

1. Leave granted.

2. We have heard learned counsel for the appellant, the acquiring body as well as the learned counsel for respondent Nos. 1 and 2 who are the real contesting respondents. State of Bihar which is respondent No. 3 is deemed to have been served as 30 days from the date of issuance of notice to it are over. Respondent No. 4 is a formal party and is served.

3. The short question is whether the Division Bench of the High Court was justified in dismissing the appeal filed by the appellant-Board being L.P.A. No. 904 of 1996 on the ground that application for leave to appeal was not filed. It is difficult to appreciate this line of reasoning. The appellant, which is the acquiring body, had moved the learned single Judge in review proceedings being aggrieved by the order of the learned single Judge enhancing the compensation without hearing the appellant which was not joined as a party to the proceedings before the learned single Judge. When the review petition was dismissed the appellant had a right to directly file a Letters Patent Appeal against that very judgment as it was a party to the review proceedings.

4. Only on this short ground, therefore, it must be held that the Division Bench of the High Court wrongly disposed of the appeal as not maintainable because the appellant had not sought any leave to appeal. This appeal is, therefore, allowed. The impugned order dated 13th May, 1998 is set aside. Letters Patent Appeal No. 904 of 1996 is restored to the file of the High Court with a request to the appropriate Division Bench to which the appeal will be assigned for hearing, to decide the same on merits after hearing the parties concerned.

5. We make it clear that we make no observations on the merits of the controversy between the parties, including the question of maintainability of the appeal on any other legally permissible ground.

6. No costs.

Order accordingly.