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EMINENT DOMAIN - TEXAS

In re Electric Transmission Texas, LLC

Court of Appeals of Texas, Corpus Christi-Edinburg - November 2, 2015 - Not Reported in S.W.3d - 2015 WL 6759238

This petition for writ of mandamus arose from an eminent domain proceeding instituted by Electric Transmission Texas, LLC (ETT) for the purpose of acquiring an easement and right of way access across a 6.420 acre of land owned by the real party in interest, Wyatt Agri Products Corporation, LLC ("Wyatt"). ETT sought the easement in order to install a double-circuit-capable electric transmission line for the purpose of transmitting and delivering electricity.

At a subsequent hearing, the trial court granted a Wyatt's motion for a continuance. At the hearing, counsel for ETT reiterated its position that the trial court lacked jurisdiction to grant a continuance

ETT then brought this mandamus petition. ETT contended that the trial court did not have jurisdiction to hear or rule on the matters raised by Wyatt in its plea in abatement because the trial court's jurisdiction to act was limited to that conferred by statute. ETT further specifically contended that the trial court's failure to appoint the three special commissioners constituted an abuse of discretion and the trial court's orders issued to date were void.

The Court of Appeals agreed with ETT, concluding that the trial court abused its discretion in failing to appoint the special commissioners and in scheduling a hearing on Wyatt's plea in abatement.