

(2014) 08 TP CK 0033

In the Tripura High Court

Case No : WP (C) No. 06 of 2009

Anil Plantation Pvt. Ltd. VsThe State of Tripura

Date of Decision : 14-08-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 12(2), 17, 18, 4

Citation : (2014) 08 TP CK 0033

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : D.K. Biswas, Advocate for the Appellant; S. Chakraborty, Addl. G.A. and P.K. Biswas, Asstt. S.G, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

S.C. Das, J.—Heard learned counsel, Mr. D.K. Biswas for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for respondent Nos. 1 and 2 and learned ASG, Mr. P.K. Biswas for respondent No. 3.

2. By filing this writ petition under Article 226 of the Constitution of India the petitioner prayed for directing respondent No. 2 to make a reference u/s 18 of the Land Acquisition Act(for short, L.A. Act) as per the application of the petitioner dated 10.04.2008(Annexure-8 to the writ petition).

3. Land measuring 5.06 acres belonged to the petitioner was acquired for the purpose of construction of road(extension of Agartala-Sabroom road at Gakulnagar) by Notification dated 13.03.2006 issued u/s 4 of the L.A. Act. Emergency provision as prescribed u/s 17 of the L.A. Act was invoked and the petitioner being aggrieved challenged the notification of acquisition by filing writ petition before Agartala Bench of the Gauhati High Court and that writ petition was dismissed. He preferred Writ Appeal No. 65 of 2007 and that was also dismissed. Thereafter, he filed Special Leave Petition(SLP) before the Supreme Court and the SLP was also dismissed on 29.02.2008. While the petitioner challenged the acquisition process by filing writ petition, the LA Collector, in the meantime, assessed the compensation and determined the compensation and

issued Notification u/s 12(2) of the L.A. Act on 12.10.2007. After the SLP filed by the petitioner was dismissed on 29.02.2008, the petitioner received the compensation determined by the L.A. Collector and filed an application in writing on 10.04.2008 u/s 18 of the L.A. Act for a reference to the L.A. Judge for determination of the actual market price of the acquired land since the petitioner was not satisfied with the compensation determined by the L.A. Collector. The L.A. Collector pursuant to that application did not make the reference since it was time barred. The petitioner, therefore, filed the present writ petition stating that the petitioner was fighting all along against the acquisition and therefore did not receive the compensation and under compelling circumstances could not file the application in time u/s 18 of the L.A. Act for a reference and for fair ends of justice the respondent No. 2, i.e. the L.A. Collector may be directed to make a reference pursuant to that application dated 10.04.2008.

4. Respondents contested the case by filing counter affidavit inter alia stating that the prayer of the petitioner for a reference u/s 18 of the L.A. Act was time barred and so the L.A. Collector rightly refused to make a reference. There is nothing wrong in the action taken by the L.A. Collector.

5. Learned counsel, Mr. D.K. Biswas for the petitioner submits that the petitioner was prevented with sufficient reason in not filing the application u/s 18 of the L.A. Act in time since the petitioner was with the hope that he might succeed in the writ petition but he has lost the writ petition including the SLP filed in the Supreme Court. After loosing the writ case, the petitioner received the compensation awarded by the L.A. Collector and filed the petition for reference. There was no negligence or intentional lapse on the part of the petitioner in making application for a reference.

6. Learned Addl. G.A., Mr. Chakraborty submits that the petitioner would accept the awarded compensation and make his application for reference in time. He has not done so and so his application for reference cannot be entertained.

7. Learned ASG, Mr. P.K. Biswas also submits that the application of the petitioner cannot be accepted at this belated stage.

8. Taking into account the facts and circumstances of this writ petition and the objection raised by the respondents, I am of the considered opinion that the petitioner was prevented with sufficient reason for not making the application in time as prescribed u/s 18 of the L.A. Act. The petitioner all along was fighting against the acquisition and when he lost the case he received the amount of compensation determined by the L.A. Collector and filed the petition dated 10.04.2008 u/s 18 of the L.A. Act for making a reference. In the circumstances, I find justification to direct the L.A. Collector to make the reference as prayed for by the petitioner by his application dated 10.04.2008.

9. Accordingly, it is hereby ordered that the respondent No. 2 should make the reference as per prayer dated 10.04.2008 to the concerned L.A. Judge within 90(ninety) days from the date of receipt of a copy of this order for determination

of the market price of the acquired land as per law.

10. The writ petition accordingly stands disposed of.