
(2016) 02 JH CK 0098
In the Jharkhand High Court
Case No : W.P(C) No. 2939 of 2014

Arati Hazra @ Arati Devi Hazra

APPELLANT

Vs

State of Jharkhand & Others

RESPONDENT

Date of Decision : 23-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 12(2), 18, 4, 9

Citation : (2016) 164 AIC 699 : (2016) 3 AIRJharR 451 : (2016) 2 JCR 485

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Dr. Hasnain Waris, Advocate, for the Appellant; Suman Kr. Ghosh, J.C. to G.A, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—; Heard learned counsel for the parties.

2. Petitioner is the awardee of the acquisition undertaken by the respondent authorities in execution of Subarnarekha Project pertaining to Plot nos. 435 and 436, Khata No. 125 village Dulmi, P.S. Nimdih, District Saraikela Kharsawan. She has approached this Court now in the year 2014 seeking award of compensation with solatium and/or interest of cost of construction of pond measuring 225 feet in length, 126 feet in width with 19 feet depth. Petitioner is also recognised as a displaced family for which Vikas Pustika No. 2635 has been issued in the year 1986 itself in the name of her husband Dayamay Hazra. The petitioner contends that the relevant plots were purchased by her husband jointly with the brother of the husband through a sale deed much prior to execution of Subarnarekha Multipurpose Project. The Amin, while undertaking the survey in the year 1984-86, however, did not record the existence of a pond of the description referred to herein above. The pond stood allotted to the petitioner after mutual partition of the property. Pond is still in existence in the year 2014. However, the award no. 242 dated 21st December, 1986 of the sum of Rs. 19,365/- did not

compensate the cost of construction of the pond situate over the plot of land. Petitioner refers to a general notice of 05.01.1968 (Annexure-2) issued by the Administrator, Subarnarekha Multipurpose Project asking the aggrieved person to make objection in respect of the compensation awarded towards acquisition of land, residential house, trees, ponds, wells, etc. whose valuation was not correctly done. The petitioner contends to have made several objections as per Annexure-3 from 1986 onwards till 2013. Thereafter, she has approached this Court for a direction upon the respondents to award appropriate compensation with interest and solatium in lieu of the pond also acquired.

3. In the background of the relevant facts pleaded by the petitioner, respondents have taken objection to the claim raised after almost 28 years of the acquisition and payment of the awarded amount of Rs. 19,365.66 on 21st December, 1986 to the petitioner. It is submitted that no objection at any point of time relating to the existence of pond under the said plots was taken in response to the notification issued under Section 4 for acquisition of the said land. No objection was even taken at the stage of Section 9 or after receipt of notice under Section 12(2) of the Act regarding payment of compensation amount on the question of existence of the pond. As a matter of fact, the Khesra Panji of the land does not show the existence of the pond. At this stage, therefore, when the proceedings have concluded long back and the amount has already been awarded and accepted, such a claim cannot be raised in the eye of law. No application for making reference to the learned court under Section 18 of the Act has also been shown to have been made. Moreover, the office of Special Land Acquisition Officer No. 2, Subarnarekha Project, Mango, Jamshedpur has been abolished in the year 1997 and charges have been handed over.

4. Learned counsel for the petitioner, however, submits that the respondents in para-22 of the counter affidavit in response to para-17 of the writ petition stated that the pond was not entered in the Khesra Panji by the then Amin and Surveyer in Plot Nos. 435 and 436 at the time of survey. Therefore, petitioner has been denied due compensation for the pond, though acquired in the same process.

5. Considered the submissions of the parties and relevant facts on record. As is evident from the pleadings, the claim for compensation in respect of acquisition which has reached the stage of award in December 1986, has been raised by the petitioner in 2014 and that too after receipt of compensation for the plots in question in December 1986 itself. There are time limits prescribed under the provisions of Land Acquisition Act, 1894 for raising any objection in relation to determination of the compensation award to be considered by the competent court of law under a reference made under Section 18 of the Act. However, records do not show any application for reference being made within the time limits of six weeks from the date of receipt of notice of the award or six months from the date of award, whichever expires earlier. In such circumstances, at this stage of time the remedy for the petitioner under the Land Acquisition Act, 1894

also being barred on the grounds of gross delay, writ petition for the said relief should not be entertained.

6. Accordingly, the writ petition is dismissed.

7. Petition dismissed.