

(2007) 06 JH CK 0005
In the Jharkhand High Court

Bablu Marandi and Another

APPELLANT

Vs

Eastern Railway Division and Others

RESPONDENT

Date of Decision : 20-06-2007

Acts Referred:

Citation : (2007) 4 JCR 330

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.

1 Heard.

2. Petitioners have prayed for direction to restrain the Railways from constructing railway siding on the raiyati lands in Mauza Moti Jharna, Chak Moti Jhama and Banskela west of Mahajanpur Railway Station, P.S. Taljihari, District Sahibganj and for restraining them from carrying ballasts from the nearby stone quarry and stone crusher machines and for direction to pay adequate compensation to them against their lands occupied by the Railway. Petitioners have further prayed for declaration that the respondents 1 and 2 Railways have no right, title and interest over the lands in question.

3. According to the petitioner, sometimes in the year 1970-71, the Railway acquired about 19 acres of agricultural lands including the lands in question under land acquisition proceeding by way of temporary measure for a period of 3 years for making arrangement for construction of railway line in case the Maharajpur Railway Station gets submerged into the Gangas. It is further stated that after such acquisition, the Railway had constructed railway line on the lands in question but after expiry of three years, they removed the railway line but did not remove the soil piled up across the said railway line in spite of requests due to which petitioners were deprived from using the said lands for last 28 years, for which Railway is liable to pay compensation. Petitioners were shocked and

surprised to find on 8th July, 2002 that some activities were in progress for constructing railway siding on the lands in question and for carrying ballasts etc. from the nearby stone quarries. The complaints were also made to the local authority.

4. The stand of the Railway on the other hand inter alia is that the lands were acquired in the year 1971 and the award was published. The Land Acquisition Officer, Dumka vide letter No. Ill dated 21.2.1983, declared that all formalities for acquisition of the land had been completed and the possession of the land was taken over permanently, It is further stated that the compensation was also paid. However, only in July, 2002, the construction work of railway siding could be started on the acquired lands. The villagers raised objection. The Deputy Commissioner, Sahebganj held a meeting on 22.7.2002, in which, it was decided that an independent amin would demarcate the acquired portion for-Railway by posting poles in presence of Railway Officer and land owners, whose lands were acquired The meeting was held in presence of Shri Lobin Hembrom, MLA, pradhan cum sarpanch of Maharajpur Panchayat, SDO, Rajmahal, Assistant Engineer, Eastern Railway, Sahibganj and the land owners (Annexure-A). Thereafter, the acquired lands were demarcated and handed over to the Railway by the local Authorities/Circle Officer on 28.7.2002 vide Annexure-B, and the work of construction of railway siding started. It is lastly submitted that petitioners have suppressed all these facts and their objection is baseless and mala jide.

5. The aforesaid statements made in the counter affidavit have not been controverted. From the facts and circumstances, noticed above, it is clear that the lands were acquired in the year 1971 for Railways. Compensation was also paid. The acquisition proceeding was complete in 1983, though the railway started construction on the land in question in July 2002. Petitioners and other villagers objected. The District Administration intervened. The acquired lands were demarcated and handed over to the Railway on 28.7.2002 vide Annexure-B. Petitioner"s contention that the lands were acquired temporary for three years cannot be accepted. In the circumstances, I find no merit in this writ petition which is accordingly dismissed. However, petitioners being adivasis, I am not imposing cost on them for suppressing facts and filing this frivolous writ petition.