

(2019) 10 JH CK 0073
In the Jharkhand High Court
Case No : Writ Petition (c) No. 1802 Of 2016

Badul Ram Nishad

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 30
Constitution Of India, 1950 — Article 226

Citation : (2019) 10 JH CK 0073

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : D.K. Chakravorty, Atanu Banerjee

Final Decision : Disposed Of

Judgement

This writ petition is under Article 226 of the Constitution of India whereby and whereunder direction has been sought for upon the respondents to make payment of compensation for the land acquired from the ownership and possession of the petitioner pertaining to an area of 5.44 acres of land in respect to Khata No. 23, Mouja/Village Icha, P.S. Rajnagar, Thana No.420, District Seraikela-Kharsawan.

It is the admitted case of the petitioner that when Section 4 notice as required to be issued under Land Acquisition Act, 1894, the petitioner was not the title holder, rather, subsequent to issuance of notification under Section 4 of the Act of 1894, he being the subsequent purchaser, has got the status of land holder of the land but the specific case of the petitioner is that on the date of acquisition of the land, he being the title holder, became entitled to get the amount of compensation but instead of making payment of compensation in his favour, the erstwhile owner has been paid, therefore, the present writ petition.

Counter affidavit has been filed by the State respondents whereby, inter alia, stand has been taken that way back sometime in the year 2005 the amount of

compensation was disbursed in favour of the erstwhile landlord i.e. Respondent No.6, therefore, the submission has been made to dismiss the writ petition.

This Court, after having heard learned counsel for the parties and taking into consideration the dispute upon the factual aspect which pertains to adjudication regarding entitlement of the claim of amount of compensation, since the petitioner is claiming compensation on the basis of the fact that the day when acquisition was effected, he was in the possession of the land by virtue of transfer of title in his favour but without considering that aspect of the matter, the amount of compensation has been paid in favour of the erstwhile title holder of the land.

In view thereof, the matter pertains to dispute about the apportionment of the amount of compensation and for that specific provision has been made under Section 30 of the Land Acquisition Act, therefore, this Court is of the view that it would not be proper for this Court to adjudicate upon the issues as has been agitated by the learned counsel for the parties.

Accordingly, this Court is not inclined to interfere with the writ petition, however, liberty is being accorded to the petitioner to approach before the Deputy Commissioner in the jurisdiction conferred under Section 30 of the Land Acquisition Act. If such application is filed within a period of three weeks, the Deputy Commissioner will take decision in accordance with law within a period of six weeks from the date of receipt of such application.

This writ petition is accordingly disposed of.