

(2014) 11 JH CK 0034

In the Jharkhand High Court

Case No : Writ Petition (Civil) No. 1586 of 2014

Baleshwar Yadav

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 03-11-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 12, 18, 4, 5A, 6

Citation : (2015) 1 JLJR 96

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Sahadeo Choudhary, Advocate for the Appellant; Atanu Benarjee, G.A, Advocate for the Respondent

Judgement

S. Chandrashekhar, J.—Seeking a direction upon the respondents to pay proper compensation to the petitioners, the present writ petition has been filed.

2. It is stated that the land belonging to the petitioner Nos. 1 and 2 comprised in khata No. 01, plot No. 02, Rakwa-0.70 acres in mauza- Kosmadih was acquired for construction of Super Thermal Power Plant. Similarly, the land belonging to petitioner Nos. 3, 4, 5 and 6 were also acquired for construction of Super Thermal Power Plant. Vide notice dated 11.12.2009 the petitioner Nos. 1 to 5 were directed to receive the compensation amount of Rs. 24,156/- and the petitioner No. 6 was to receive compensation amount of Rs. 69,016/-. A legal notice dated 14.03.2013 was issued by the petitioner Nos. 1 and 2 to the respondent No. 2-Chief Engineer, Damodar Valley Corporation claiming compensation of Rs. 2,40,000/-.

3. The petitioner No. 4 gave legal notice dated 14.03.2013 seeking compensation of Rs. 2,50,000/- and the petitioner No. 6 served legal notice dated 14.03.2013 seeking compensation of Rs. 4,00,000/-. The petitioner Nos. 1 to 5 received the compensation amount of Rs. 24,156/- on 03.06.2013 under protest and the petitioner No. 6 also received an amount of Rs. 69,016/- on 03.06.2013, under protest. Although, an amount of Rs. 10,55,664/- was fixed for one Bahadur

Yadav vide letter dated 08.05.2013 for the same project and the petitioners submitted an application for reference under Section 18 of the Land Acquisition Act however, no action has been taken by the respondents. Though the respondent-authorities are bound to fix equal rate of compensation for the same project, the petitioners are given compensation not on equal rates and therefore, the action of the respondents are illegal.

4. Heard the learned counsel appearing for the petitioners and perused the documents on record.

5. The notice dated 11.12.2009 issued to the petitioners indicates that in terms of letter No. 10/DLA Misc.(Law) 19/08-334/RA. dated 14.05.2009, compensation of Rs. 24,156/- has been fixed for the persons who are cultivating Gair-mazarau khas-government land. The petitioners have accepted the amount of compensation on 03.06.2013, though under protest. The petitioners have sought a direction upon the respondents to pay proper compensation to the petitioners. The petitioners have claimed that they submitted an application for reference under Section 18 of the Land Acquisition Act however, their application have not been decided. Section 18 of the Land Acquisition Act is extracted as under:

18. "Reference to Court - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,--

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

6. It appears that the award was made on 11.12.2009 and vide notice dated 11.12.2009, the petitioners were directed to appear on 22.12.2009 for receiving the amount of compensation. From the materials brought on record, I find that the petitioners have preferred the application allegedly under Section 18 of the land Acquisition Act, 1894 on 06.05.2013, which is beyond the statutory period of six months from the date of award. The petitioners have received notice dated 11.12.2009, is admitted by them however, no explanation has been offered by the petitioners for not moving application under Section 18 of the Land Acquisition Act, 1894, within the statutory time. The only plea urged by the

learned counsel appearing for the petitioners is that, since the petitioners have received the compensation under protest, their application under Section 18 of the Land Acquisition Act, 1894 should have been referred to the reference Court. The petitioners have not pleaded even the foundational facts such as, the date of notification under Section 4 and 6, notice under Section 5-A, their objection etc. It appears from the notice dated 08.05.2013 that the petitioners are illegal occupants of government lands, who have been offered compensation as per the decision of the Government. I find no merit and accordingly, this writ petition is dismissed.