
(2016) 10 JH CK 0019
In the Jharkhand High Court
Case No : W.P.(S) No. 6344 of 2010

Binod Kumar Mahto

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 26-10-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 JBCJ 467

Hon'ble Judges : Shree Chandrashekhar, J.

Bench : Single Bench

Advocate : Ms. Bandana Sinha, Advocate, for the Petitioner; Mr. Rajesh Lala, Advocate Mr. Arpit Kumar, Advocate, for the Respondent E.C. Ltd.

Final Decision : Dismissed

Judgement

Shree Chandrashekhar, J.—Rejoinder affidavit dated 25.10.2016 filed by the petitioners is taken on record, copy thereof has been supplied to the learned counsel appearing for the respondents.

2. Claiming a suitable employment in lieu of compensation which was granted for acquisition of the land comprised under plot nos. 349, 350 and 354, the petitioners seek a direction upon the respondents.

3. Ms. Bandana Sinha, the learned counsel for the petitioners referring to supplementary affidavit dated 25.10.2016 submits that the guidelines for examining the eligibility of land losers for employment vide Annexure-1 to the affidavit would disclose that a person having more than 1 acre, but less than 3 acres land was entitled for one employment, however, the petitioners who have lost their landed properties including the house property have been denied employment.

4. At the outset, it needs to be mentioned that the petitioner no.2 claims herself a party in the proceeding of Reference Case No. 60 of 1986, however, order dated 03.11.1996 passed in the aforesaid Reference Case mentions the names of

Samri Devi and Dubri Devi as the legal heirs of Most. Mandia Mahatwain. The petitioner no.2 has disclosed her name as Dubhani Devi @ Upasi Devi and she has failed to produce on record or aver in the instant writ petition that she is, in fact, Dubri Devi who had filed application in Reference Case No. 60 of 1986. Leaving aside the aforesaid discrepancy in the identity of petitioner no. 2, it is not in dispute that the land comprised in plot nos. 349, 350 and 354, area about .33 decimal was acquired and award was prepared. Thereafter, an application was filed by the aforesaid Samri Devi and Dubri Devi raising a grievance that other persons namely, Sanichar Mahto, Fagu Mahto and Dulari Devi have received half of the compensation illegally. The dispute was finally adjudicated vide order dated 03.11.1996 passed in Reference Case No. 60 of 1986, where-under the said Samri Devi and Dubri Devi were held entitled for compensation in lieu of acquisition of .33 decimals land comprised in plot nos. 349, 350 and 354. The learned counsel for the petitioners, however, submits that land comprised under plot nos. 96 and 97 was also acquired and now the composite area comes to 1.23 acres and thus, in terms of guidelines dated 04.09.1991, the petitioners are entitled for one employment.

5. The materials brought on record disclose that the petitioner no.1 and others moved this Court in C.W.J.C. No. 3661 of 1997 and their claim for employment has been rejected on merits vide order dated 01.09.1998. As noticed above, order dated 03.11.1996 passed in Reference Case No. 60 of 1986 also does not disclose acquisition of land more than .33 decimals. It also needs to be mentioned that against order dated 01.09.1998 passed in C.W.J.C. No. 3661 of 1997, a Letters Patent Appeal was preferred vide L.P.A. No. 1117 of 1998 which stood dismissed vide order dated 24.01.2000.

6. In view of the aforesaid facts, the instant writ petition is held barred by res judicata and consequently, the prayer of the petitioners cannot be granted in the present proceeding.

7. Accordingly, the instant writ petition is dismissed.