

(2016) 08 JH CK 0080

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5848 of 2014

Binod Kumar Vijayvargiya

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 23-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 4 JLJR 713

Hon'ble Judges : Mr. Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Atanu Banerjee, G.A, for the State; Mr. A.K. Sahani, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J. - Heard counsel for the parties.

2. Petitioner has made a prayer to grant him compensation at the present market rate along with interest in respect of a piece of land measuring an area of 1.25 acre being portion of R.S. Plot No.343 (SubPlot No.7) under R.S. Khata No. 164 in village Hethu or to return the said land to the petitioner within the specified period.

3. According to the petitioner, the aforesaid piece of land was recorded in the name of Chotanagpur Banking Association measuring an area of 40 acres. In L.A. Case No. 12R5/41-42 an area of 15.70 acres out of 40 acres of land appertaining to Plot No. 343, Khata No.164 in Mouza Hethu was acquired for the purposes of Aerodrome and compensation was paid to Chotanagpur Banking Association. By a registered sale deed bearing No. 6510/1951 dated 23rd September, 1951 Chotanagpur Banking Association sold an area of 1.25 acres of land out of remaining non-acquired portion of R.S. Plot No. 343, Khata No. 164 in the said village to the petitioner's father. Name of petitioner's father was mutated in Mutation Case No. 73 R27 of 1962-63 and rent has been paid till his death and

thereafter up to 2008-09. Petitioner remained in peaceful possession over the said 1.25 acres of land. In the meantime, his father died on 26th August, 2006. Thereafter, on a query made through letter no.1113 dated 6th December 2008 respondent no.3 intimated that an area of 22.23 acres of land was acquired from R.S. Plot no.343, Khata No.164 for the purposes of Aerodrome. Petitioner contends that his land does not form within the acquired area. He also sought information from the competent authority of Airport Authority of India which has been answered through Annexure-5 dated 11th October 2011 on their behalf stating that Khata No.164, Plot No.343, area 39.68 acres of land is mutated in favour of the Airport Authority of India. Petitioner has been asked to approach the Land and Revenue authorities of the State Government in respect of the claim of compensation and notice, etc. Petitioner has, thereafter, made a representation to the Deputy Commissioner, Ranchi for compensation of the piece of land. It is also stated in the representation that there is a possibility that as per the Khatian the acquired land could be Gair Mazarua Khas land. However, he has made a prayer for payment of compensation.

4. Having taken note of the aforesaid prayer of the petitioner in the light of the material facts pleaded and the submissions advanced on behalf of the petitioner and the State, it appears that the instant issue of compensation for acquisition of a piece of land in the year 1941-42 for the purposes of setting up of an aerodrome at Ranchi cannot be examined in writ jurisdiction of this Court as it may involve several questions of facts also. Such a prayer after acquisition in the year 1941-42 appears to be belated when according to the petitioner also he had been enjoying the possession of the land after paying rent in lieu thereof since its purchase in 1951 itself. There is no averment of dispossession of the petitioner from the said piece of land either in the writ petition. Petitioner, therefore, if has a grievance relating to his right, title and possession over the piece of land upon any such threat of removal or dispossession, has a remedy before the competent court of civil jurisdiction where such issues of ownership and title can be gone into. At this point of time, however, claim of compensation by way of writ petition cannot be entertained.

5. Writ petition is accordingly dismissed leaving petitioner to work out his remedy as observed herein above before the appropriate forum, if so advised.