
(2000) 05 OHC CK 0019
In the Orissa High Court
Case No : Civil Revision No. 176 of 1999

Bulani Swain

APPELLANT

Vs

Land Acquisition Collector, M.C.I.I. Project, Zobra, Cuttack

RESPONDENT

Date of Decision : 12-05-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Land Acquisition Act, 1894 — Section 18

Citation : (2001) 91 CLT 208

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : M/s M.N. Das and S.C. Mohanty, for the Appellant; Addl. Standing Counsel, for the Respondent

Judgement

P.K. Misra, J.—This revision has been filed u/s 115 of the CPC read with section 18 of the Land Acquisition Act (hereinafter referred to as the "Act"), challenging the order of the Land Acquisition Collector rejecting the application of the petitioner for making a reference to the Civil Judge (Senior Division). The application has been rejected solely on the ground that the petitioner had received the land acquisition award without protest. In the petition u/s 18 of the Act it had been indicated that the award had been received under protest., In the civil revision petition it is stated that the petitioner orally protested at the time of receiving the award. It has been submitted by the counsel for the petitioner that at the time of considering the application u/s 18 of the Act, the Land Acquisition Collector did not afford any opportunity of hearing to the present petitioner and if any such opportunity would have been given, the petitioner would have established that he had orally protected at the time of receiving the compensation.

2. Law is now well settled that at the time of deciding the question as to whether a reference can be made or not, principle of natural justice should be followed. (See Basant Kumar Jena and Another Vs. State of Orissa and Another, (Ajit Singh

v. Secretary to the Punjab Government) 1987 91 PLR 403 (Baldev Singh v. The State of Haryana) and Civil Revision No. 213 of 1993 (Supai Munda v. Collector, Cuttack and others) disposed of on 11-9-1995. The right to seek a reference u/s 18 of the Act is a valuable right of the person whose land has been acquired and in the process of deciding an application seeking a reference to the Civil Court, the basic principles of natural justice are required, to be observed.

In Basant Kumar Jena and Another Vs. State of Orissa and Another, it has been held by a Division Bench that there is no requirement in law that the protest must be in writing and oral protest can be lodged. Since the Land Acquisition Officer has not considered as to whether the oral protest had been lodged and opportunity of hearing had not been afforded to the present petitioner, in the fitness of things, the matter is required to be re-determined by the Land Acquisition Officer after affording opportunity of hearing to the present petitioner. Accordingly, the impugned order is set aside and the Land Acquisition Officer is directed to re-consider the question by following the principle of natural justice. For the aforesaid purpose, the petitioner shall appear before the Land Acquisition Officer on 26th June 2000, on which date appropriate direction can be given by the Land Acquisition Officer for further hearing of the matter.

3. The Civil Revision is accordingly disposed of. There will be no order as to costs.

4. Civil revision disposed of.