
(2007) 05 OHC CK 0041
In the Orissa High Court

Bulani Swain

APPELLANT

Vs

Special Land Acquisition Officer, M.C.I.I. Project and Another

RESPONDENT

Date of Decision : 03-05-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 12, 18

Citation : (2007) 104 CLT 460 : (2007) 2 OLR 93

Hon'ble Judges : Sanju Panda, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sanju Panda, J.—This Civil Revision has been filed challenging the order dated 2nd March, 2001 passed by the Special Land Acquisition & Rehabilitation Officer, M.C.I.I. Project, Jobra, Cuttack. An application was moved by the petitioner u/s 18 of the Land Acquisition Act to refer the matter to the Civil Court for adjudication for higher compensation as her land was acquired by the State Government for Mahanadi Chitratpola island Irrigation Project.

2. The facts leading to the case in a nutshell are as follows;

The petitioner was owner in possession of the land bearing khata No. 184, plot No. 206 measuring Ac.0.01 dec. and plot No. 207 measuring Ac.0.01 dec. of mouza Anali. As the land was acquired for Mahanadi Chitratpola Island Irrigation Project of district Jagatsinghpur under Land Acquisition Case No. 18 of 1995 and the oral submission of the petitioner had not been taken into consideration while computing the market price of the land and the award was not disclosed to the petitioner on any day before the payment nor on the day of payment in the camp. The Special Land Acquisition Officer on the date of payment got the signature of the petitioner on some documents without explaining the legal implication of the said documents. The power of attorney holder of the petitioner was present before the Special Land Acquisition Officer to give statement but he did not agree to record his statement so the power of attorney holder filed an

affidavit on behalf of the petitioner for appearance of the petitioner before the Land Acquisition Officer and the said affidavit was rejected by opposite party.

3. The petitioner is an illiterate rustic village lady. She does not understand the intricate legal provisions. She can only put her thumb impression. The Land Acquisition Officer has passed award on 6.6.1998. Notice u/s 12(2) of the Land Acquisition Act was served on 30th August, 1998 and the compensation amount was paid to the petitioner. She received amount by putting the thumb impression and as the said amount was very low than the actual amount of the land in the vicinity she raised the protest orally against such low price at the time of receiving the compensation and she requested the Land Acquisition Officer to record her protest and the Officer assured her to record her protest sometime later and on 9.9.1998 she filed an application u/s 18 of the Land Acquisition Act for enhancement of the said compensation and to refer the matter to Civil Court for adjudication for higher market price but the same was rejected by the Land Acquisition Officer on 1.3.2001 and he communicated the said order through a memo No. 594 dated 2.3.2001 on the ground that the reference application was barred by limitation and the compensation was received without protest.

4. The learned Counsel for the petitioner submitted that the petitioner filed an application for reference u/s 18 of the Act immediately after receiving the compensation amount and considering the said application the Land Acquisition Officer passed the order without giving her an opportunity of hearing. If any such opportunity would have been given to the petitioner, she would have explained that she has protested at the time of receiving compensation. The very fact that she had filed an application for reference immediately after receiving the compensation clearly shows her intention to protest was implied against the award of the Land Acquisition Officer notwithstanding acceptance of compensation. Law is 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 Ajit Singh and Others Vs. State of Punjab and Others,).

5. The right to seek a reference u/s 18 of the Act is 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 to be observed. As the petitioner has filed an application for reference u/s 18 of the Act that will manifest that intention. Therefore, the protest against the award is implied. The petitioner has stated these facts on affidavit. The State has not filed any counter denying the said facts. Earlier this Court by judgment dated 12th May, 2000 remanded the matter to the Land Acquisition Officer to reconsider the question by following the principle of natural justice but the impugned order does not reveal that the Land Acquisition Officer has complied with the direction given by this Court on 12.5.2000. He has rejected the application summarily.

6. For the reasons stated in the foregoing paragraphs this Civil Revision is allowed and the impugned order communicated vide memo No. 594 dated

2.3.2003 is set aside and the Special Land Acquisition & Rehabilitation Officer, M.C.I.I. Project, Jobra, Cuttack is directed to make a reference of the matter u/s 18 of the Act to the competent Civil Court within a period of six weeks from the date of receipt of this order.

7. The Civil Revision is disposed of accordingly. There will be no order as to cost. The L.C.R. be sent back forthwith.