

(2022) 07 RAJ CK 0097

In the Rajasthan High Court

Case No : D.B. Special Appeal Writ No. 80 Of 2020

Chamna

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 25-07-2022

Acts Referred:

Land Acquisition Act, 1894 — Section 18A

Citation : (2022) 07 RAJ CK 0097

Hon'ble Judges : Sandeep Mehta, J;Kuldeep Mathur, J

Bench : Division Bench

Advocate : Rajesh Kumar, Sunil Beniwal

Final Decision : Dismissed

Judgement

The instant intra-court appeal was filed by the appellant Shri Chamna for assailing the order dated 24.10.2019 passed by learned Single Bench of this Court rejecting the writ petition (No.3211/2019) filed by the petitioner.

The writ petition afore-stated was filed by the petitioner alleging that the respondents unauthorizedly and without undertaking the procedure for land acquisition as prescribed by law, transgressed upon the land of the petitioner bearing Khasra No.2726/169 situated in Village Kumbhiya, Tehsil Chitalwana, District Jalore whereupon, the petitioner had constructed a residential house.

It may be stated here that the land in question was acquired for construction of the Narmada canal and its distributories. The original writ petitioner, the, appellant herein Shri Chamna has passed away. Counsel for the appellant vehemently pleaded that he may be allowed to bring the LRs of the appellant on record.

It may be stated here that the writ petition of the petitioner was dismissed by learned Single Bench of this Court on the ground that the counsel who was representing the petitioner opted not to press the writ petition with a prayer that the respondents be directed to award compensation to the petitioner for covering

the loss caused to him on account of demolition of the house which had been constructed by the late writ petitioner on the land in question.

The State counsel, on the other hand, had opposed the prayer of the petitioner's counsel to withdraw the writ petition and pointed out that the land in question had been duly acquired under the Land Acquisition Act, 1894 (hereinafter referred to as "the Act of 1894") and the compensation, if any qua the construction over the land could only be determined by the Land Acquisition Officer. The Court thus, relegated the petitioner to move appropriate application under Section 18A of the Land Acquisition Act, 1894 for enhancement/determination of compensation. The State counsel fairly conceded that as the petitioner was litigating for his rights, the application for determination/enhancement of compensation would not be opposed on the ground of delay. Accordingly, the writ petition was disposed of leaving the petitioner at liberty to file the application before the competent authority within a period of fifteen days from the date of the order. Liberty was also given to the petitioner to withdraw the amount of compensation already determined by the Land Acquisition Officer subject to his right for seeking enhancement.

Not being satisfied with the said order, the petitioner filed the instant appeal which is delayed by 21 days. The petitioner has levelled allegations against the learned counsel who represented him before the learned Single Bench and has also filed a complaint against him in the Bar Council.

Ex-facie, we are of the view that the allegations which have been levelled by the appellant-petitioner against the lawyer are totally unwarranted. It cannot be denied that the petitioner had available to him statutory remedy under the Land Acquisition Act for opposing the acquisition and for enhancement of compensation, if so desire. Instead of availing the statutory remedy under the Land Acquisition Act, the petitioner preferred the writ petition. Learned AAG Shri Beniwal submitted that the respondent authorities offered compensation to the tune of Rs.5,00,000/- to the petitioner but he refused the offer so made.

In view of these facts, we are of the firm view that the instant appeal has not been filed with bonafide objectives. That apart, the appellant has passed away. The date of his expiry has not been made clear by the appellant's counsel. Otherwise also, the order dated 24.10.2019 passed by the learned Single Bench does not suffer from any infirmity whatsoever warranting interference of this Court. Hence, the instant intra-court appeal fails and is dismissed as having abated and so also on merits.