
(2011) 06 CHH CK 0003
In the Chhattisgarh High Court
Case No : Civil Revision No. 108 of 2004

Dildar Singh

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Land Acquisition Act, 1894 — Section 18, 18(1), 18(2), 18(3)
Limitation Act, 1963 — Section 14, 24, 4, 6

Citation : (2011) 4 CGLJ 555 : (2011) 4 MPJR 137

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Shri Prashant Kumar Mishra, J.—In this civil revision u/s 115 of CPC read with Section 18 (3) of the Land Acquisition Act, 1894 (as amended in the State of M.P./C.G.), the petitioner has called in question the order passed by the Additional District Judge (F.T.C.) Ranker on 31/01/2004 and the order of Collector, Kanker passed on 3/11/1999 rejecting his application purportedly filed u/s 18 of the Land Acquisition Act, 1894 (henceforth "the Act"). Facts of the case, briefly stated, are that the respondent/State acquired agricultural lands belonging to private holders for construction of Dorde Irrigation Tank. From the record made available by learned State counsel it would appear that the land acquisition proceedings was initiated on 12/11/1984 on the application submitted by the Executive Engineer of the Irrigation Department, Kanker on 20th January, 1984. It appears from the record that the notification u/s 4 and 6 was published on 12/10/1985 and thereafter award was prepared and approved by the Collector on 29/04/1987. In this award a sum of Rs. 14962.64 paise was granted as compensation for lands and an amount of Rs. 43320.20 paise was granted as compensation for the trees standing on the land. The record also contains an application signed by the applicant addressed to the Irrigation Department that the trees standing on his land may not be acquired as he wishes to hand over

the trees to a private contractor and that he does not desire to obtain compensation of the trees from the department. Thus, the award was passed without acquiring the trees as the petitioner desired to dispose of the trees of his own.

2. The petitioner later on moved an application on 1/12/1987 (Annexure P-2) inter-alia stating that the private contractor who was engaged by the petitioner for cutting of the trees, was not allowed to cut trees because the said arrangement was stopped under the orders of the State Government and that now he should also be granted compensation for the trees which existed on his land. Another application dated 14/12/1987 (Annexure P-5) was moved by the petitioner before the Sub Divisional Officer. Repeated pursuance of the petitioner finally led to passing of an order by the Collector on 20th August 1998 which is, in fact, in the form of memorandum issued from the office of Collector, Bastar to the Sub Divisional Officer, Revenue, Bhanupratappur informing that the application for compensation for trees has been filed. In the record, inspection reports are available in which it is mentioned that since the area in which the trees were standing have submerged, counting is not possible meaning thereby that the trees were standing on the land acquired for construction of tank which was the subject matter of the first acquisition of the year 1984 in which award was passed on 29/04/1987.

3. There is yet another land acquisition proceeding drawn for acquisition of land for construction of canal emanating from the irrigation tank which was subject matter of the first acquisition.

4. Treating the memo dated 20th August, 1998 written by the Collector, Bastar and addressed to the Sub Divisional Officer, Revenue, Bhanupratappur as rejection of his application for grant of compensation and consequential award, the petitioner initially moved an application before the Commissioner, Bastar Division in form of revision petition which was eventually dismissed on 18/03/1999 on the ground that the matter pertains to proceedings under the Land Acquisition Act for which the Commissioner has no jurisdiction. The petitioner thereafter moved an application before the Collector, Ranker u/s 18 of the Act, 1894 inter-alia submitting that he has not been granted compensation for 134 numbers of trees and on 20th August, 1998 his application has been filed meaning thereby that his prayer for compensation for trees has been turned down.

5. The Collector, Ranker by its order dated 3/11/1999 (Annexure P-9) has dismissed the application on the ground that the application is barred by limitation.

6. Learned counsel for the petitioner would submit that the learned Collector has committed serious error of law by holding that the application is barred by limitation. He would submit that the petitioner has moved an application before Commissioner immediately after the order was passed by the Collector on 20th

August, 1998, however when the Commissioner dismissed the revision as not maintainable, application u/s 18 was moved before Collector and by virtue of provisions contained in Section 14 of the Limitation Act his application should have been treated to be within limitation because the petitioner was bonafidely litigating before another forum i.e. before Commissioner, Bastar.

7. Per contra Shri Vaswani learned State Counsel would submit that there is no award with respect to the trees as the petitioner had already waved his right by agreeing that he will not receive any compensation for the trees and that in any case the application u/s 18 was barred by limitation. He would also submit that the memo dated 20/08/1998 is not an award.

8. Having heard learned counsel for the parties at length and after perusal of the record of the land acquisition proceedings drawn in the year 1987 for acquisition of land for construction of tank and the second acquisition proceedings for acquisition of land for construction of canal as well the third set of record concerning petitioner's application for grant of compensation for trees, this Court is of the considered opinion that the revision petition preferred by the petitioner deserves to be dismissed. The first acquisition proceedings was completed in all respect when the award was passed on 29/04/1987. The petitioner, instead of moving the application u/s 18 of the Act immediately after passing of the award, chose to move representation in November and December, 1987 vide (Annexure P-2 and P-5) inter-alia stating that though he had earlier agreed to not to seek compensation for the trees as he had already sold the trees to private contractor, now he agrees to seek compensation for which proceeding should be drawn and compensation should immediately be paid. Consent letter written by the petitioner addressed to the irrigation department is available on record in which he has categorically consented to not to receive any compensation for trees on the ground that the trees shall be handed over to a private contractor. The subsequent application seeking compensation for trees were moved after completion of the acquisition proceedings and after about three years from the date when the acquisition proceeding was initiated. Petitioner never moved any application during this period i.e. between November 1984 and April 1987 when the acquisition proceedings were pending. Learned counsel draws attention of the court to the document Annexure P-1 to state that the petitioner had in fact moved an application on 28/02/1987. However, the said document does not bear any signature or receipt of the department or that of the Land Acquisition Officer. In the original record also copy of any such application is not available. Thus, it appears that the said document/application was never submitted before the Land Acquisition Officer. In fact this document is addressed to the Sub Divisional Officer, Department of Irrigation, Bhanupratappur and is not addressed to concerned Land Acquisition Officer.

9. Be that as it may, since the first acquisition with which this court is concerned in this revision proceeding, was completed on 29/04/1987 and no application u/s 18 of the Act was moved within the time as prescribed u/s 18 (2) of the Act

1894, the subsequent application and its pursuance by the applicant and consequent follow up action by the authorities to process the application, seek reports etc. are to no consequence because the application u/s 18 was not at all pending at that point of time and in fact the application filed in November and December, 1987 were representations to the authorities to grant compensation for trees.

10. There is substance in the argument raised by learned State counsel that the memo dated 20 August, 1998 is not an award in as much as in the preceding paragraphs of this order this court had already held that the acquisition proceedings was complete on 29/04/1987 and thus the Collector was not seized of any acquisition proceeding so that an award can be passed in August, 1998 with respect to the trees standing on the petitioner's land for which the land acquisition was completed in April, 1987 and during the said acquisition proceedings petitioner had already consented that the trees would be handed over and in fact they have been sold to a private contractor and he will not seek compensation for the trees.

11. For the above reasons, this court is of the opinion that the other points raised by the petitioner that he is entitled to benefit u/s 14 of the Limitation Act is referred only to be rejected in view of law laid down by the Supreme Court in para 7 of the judgment in the matter of Bhagwan Das & Ors. Vs. State of U.P. and Ors. with Nayantara Gupta & Ors. Vs. State of U.P. & Ors. 2010 AIR SCW 414 in which, relying on its earlier judgment in the matter of Officer on Special Duty (Land Acquisition) and Another Vs. Shah Manilal Chandulal and Others, it has been held that the provisions contained in Section 4 to 24 of Limitation Act, 1963 have no application in regard to applications u/s 18 (1) of the Act, 1894. The revision petition is thus dismissed.