
(2014) 03 JH CK 0014
In the Jharkhand High Court
Case No : W.P. (C) No. 3859 of 2010

Govind Yadav

APPELLANT

Vs

C.C.L.

RESPONDENT

Date of Decision : 13-03-2014

Acts Referred:

Citation : (2014) 3 JLJR 512

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : A. Banerjee, Advocate for the Appellant; A. Sen, Advocate for the Respondent

Judgement

Narendra Nath Tiwari, J.—The plight and suffering caused by the respondents on account of serial blasts made by them in the vicinity of the residential house of the petitioner forced him to approach this Court, by filing this writ petition.

2. The petitioner is a resident of Village-Bandh Basti, P.S. Gomia, Kathara in the district of Bokaro. The respondents are the Coal Company and a Government of India Undertaking. For the purpose of extracting coal from Query No. 2 of Kathara area Colliery. The respondents used explosive and detonators from 3.11.1986 to 23.12.1986 in sequence, as thus:

3. The petitioner has a large family and to accommodate the family members and livestock and cattle, he has three number of kuchcha houses and four number of pucca house - in total seven in number.

4. It is an admitted position that the houses of the petitioner are situated in extreme North West of the village at a distance of 400 meters from the existing limit of extraction in Kathara area No. 2 Query of the respondents. Because of detonation of the said serial blasts by the respondents, all the houses of the petitioners were damaged long back in 1986. The petitioner claimed compensation of the damages before the authorities of the respondents including the General Manager of the Kathara Area Colliery by filing application long back

on 25.12.1986. A committee was constituted by the respondents to assess the loss and the amount of damage. The said Committee comprised of six members: (1) The Staff Officer(M)/Safety Officer (KTA); (2) The Finance Manager(C & H) (KTA); (3) The Safety Officer, Kathara Colliery; (4) The Sr. Survey Officer, Kathara Colliery; (5) The Sr. Executive Engineer, Kathara Colliery; & (6) One representative of operating Trade Union.

5. The committee enquired in to the damages on 11.03.1988 and 16.04.1988. On physical verification of the damages caused to the houses, the Committee assessed the loss to the tune of Rs. 59,99,228.88 paise. In course of enquiry, the Committee found that walls of the houses of the petitioner were totally cracked and people are living in a state of panic and fear of further heavy blasts. Out of fear, they are ready to desert their houses, in case the management pays proper compensation.

6. The Committee also found that houses of the petitioner are very close to Kathara area colliery and due to blast, houses were fully damaged. They had assessed the aforesaid amount of compensation on the basis of rate of schedule of the Company, 1985 at that time and the rate of bricks, cement. Iron rod and labour cost in market.

7. The said facts are mentioned in the report of the Committee dated 15.8.1988 (Annexure-4) to the writ petition.

8. On the basis of the report, approval and necessary action from the higher authorities were sought from the Project Officer, Kathara Area Colliery as far back as in the year 1988. But the same was shelved by the higher authorities. There was no response inspite of the repeated requests and representations of the petitioner. The petitioner ultimately filed writ petition before this Court being W.P. (C) No. 2935 of 2008.

9. By order dated 10.09.2008, the said writ petition was disposed of directing the respondents to asses the amount of compensation payable to the petitioner after giving the petitioner an opportunity of hearing in the matter of assessment and also to pay the amount of compensation payable to them along with interest @ 10% per annum. The Court also directed to allow the petitioner to continue in the quarters allotted to him as an alternative arrangement till final decision in the matter.

10. A committee was constituted thereafter to assess the damages of the houses of the petitioner.

11. This time, the Committee comprising of the officers of the respondents assessed the damages at Rs. 10,550/- as cost of repairing of houses in the opinion of the Committee.

12. Aggrieved and anguished, the petitioner filed this writ petition in August, 2010.

13. In spite of notice by serving copy of the writ petition on the respondents, no reply was filed by them even after lapse of several months.

14. When the case was listed on 10th December, 2010, the respondents sought time for filing counter affidavit. Time was granted. But reply was not filed. The same prayers were made and allowed several times even thereafter. Ultimately, counter affidavit was filed on 14.11.2011. In the said counter affidavit, the respondents tried to justify the amount of assessment Rs. 10,550/-, but no basis for assessment whatsoever was disclosed in the counter affidavit.

15. By order dated 27.11.2012, when this Court wanted to know the basis of assessment of the said pittance of Rs. 10,550/-, learned counsel for the respondents sought for two weeks" further time. Time was allowed for filing supplementary counter affidavit disclosing the basis for assessment of the said amount as against the earlier assessment made by the respondents of Rs. 60 lakhs. But till date, the basis for assessment of the said amount has not been disclosed.

16. Ultimately, this matter is heard today on the basis of the facts and material brought on record by the parties and the same is being disposed of by this order.

17. From the contents of the record and the report of the Committee constituted by the respondents, the following facts are admitted:

Explosives were used from 3.11.1986 to 23.12.1986 near the residential houses of the petitioner at Village-Bandh Basti for the purpose of extracting coal in Query No. 2 of Kathara Area Colliery by the respondents. The petitioner's houses were situated at a distance of 400 meters from the existing limit of extraction in Query No. 2.

18. According to the report of the Committee of respondents, the houses of the petitioner's family were built within the area of five acres surrounded by the boundary wall and there were seven number of the houses; three kachhia and four pucca houses. Those houses as per the report were built 12 years ago.

19. In paragraph-15 of the said enquiry report, it has been, inter alia, clearly mentioned that the petitioner's houses have been fully damaged by the blasts. The Committee also found that the petitioner and others were awfully frightened and panicky about the further blasts in future and even were ready to desert their village, if the" compensation is paid so as to enabling them to arrange alternative shelters.

20. Ironically, inspite of the said report by the Committee constituted, which comprised of the members of the respondents officers, the petitioner has been kept running from pillar to post for more than two decades without releasing any farthing in the name of compensation causing severe hardship mental agony and harassment to the petitioner and his family, members-shattering their all hopes and expectation of life.

21. The respondents kept deliberate silence on the contradictory assessment of amount of damages by the respondents on two different occasions. In view of the said controversy, created by the respondents regarding the assessment of just amount of compensation, it appears to be just and proper that instead of payment of compensation for the damages of the houses of the petitioner, the respondents themselves arrange suitable accommodation for rehabilitating, the petitioner and his family members.

22. The respondents are, accordingly, directed to construct four numbers of houses almost of same specification of the damaged houses as also three numbers of kachha houses at their own cost in accordance with model specification of the building construction prescribed by the Central Public Works Department (CPWD) or to the satisfaction of the petitioner on a suitable land of value equal to the land over, which the damaged houses were situated.

23. Since there has been already delay of about 25 years after the houses were damaged by the respondents, the respondents are directed to complete the construction on priority basis so that all completed houses be handed over to the petitioner by 31st July, 2014.

24. In the meantime, if the petitioner is not already provided residential accommodation, the respondents shall immediately provide sufficient residential accommodation to the petitioner and his family members.

25. As there is no sufficient material for accurate assessment of compensation for damages caused to the petitioner and his family members on account of mental agony, suffering due to loss of shelter and putting them to undue hardship for several decades, no order is being passed to that regard. The petitioner is, however, at liberty to claim damages/compensation before the appropriate authority or legal Forum, as may be advised.

26. Since the petitioner has to file writ petitions repeatedly on two occasions due to the situation created by the respondents, this writ petition is disposed of in the aforesaid terms, subject to payment of cost of Rs. 50,000/- (fifty thousand) to be paid by the respondents to the petitioner within a period of four weeks from the date of receipt/production of a copy of this order.