

(1959) 08 OHC CK 0020
In the Orissa High Court
Case No : O.J.C. No. 163 of 1958

Jaya Narain Panigrahi

APPELLANT

Vs

The Land Acquisition Officer

RESPONDENT

Date of Decision : 25-08-1959

Acts Referred:

Constitution of India, 1950 — Article 226
Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisitions) Act, 1948 — Section 7
Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisitions) Rules, 1950 — Rule 5, 6, 9

Citation : (1959) 25 CLT 561

Hon'ble Judges : Narasimham, C.J.; Das, J

Bench : Division Bench

Advocate : G.K. Misra and S.C. Mohapatra, for the Appellant; A.G., for the Respondent

Final Decision : Allowed

Judgement

Narasimham, C.J.—This is a petition under Article 226 of the Constitution for the issue of an appropriate writ directing the Land Acquisition Officer Hirakud Land Organization, to refer a dispute, to Government for appointment of an Arbitrator as provided in Rule 6 of the Rules framed by the State Government under the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced persons (Land Acquisition) Act, 1948 (Orissa Act XVIII of 1948). The Petitioner contended that his lands were acquired under the aforesaid Act for the Hirakud Dam Project, but that the compensation money was awarded to the recorded tenant, Manbodh Meher, though he had lost all interest in the same by virtue of a deed of surrender made by him in favour of the Petitioner's father as early as 1937. Some sort of preliminary enquiry was made by the Land Acquisition Officer and it was found that the Petitioner was in possession of the disputed property, but as he was unable to produce before the said Officer the deed of surrender made in his favour by the recorded tenant;

that Officer overruled the Petitioner's objection and paid the compensation money to the recorded tenant Manbodh Meher. The Petitioner's contention is that by virtue of the provisions of the latter part of Rule 6 of the aforesaid Rules, once a dispute is raised before the Land Acquisition Officer as to who was entitled to receive the compensation money, that Officer has no option but to refer the dispute to Government, as "provided in Rule 9, for adjudication by an arbitrator to be appointed u/s 7 of the Act.

2. The learned Advocate-General properly conceded that in view of the finding of the Land Acquisition Officer to the effect that the Petitioner was in possession, the dispute should have been referred to Government as required by the rules. But he urged that the Petitioner was himself to blame as he failed to produce the deed of surrender said to have been made in his favour by Manbodh Meher; or to adduce any other evidence regarding the same.

3. The true scope of Section 7 of the aforesaid Act and of Rules 5 and 6 of the aforesaid rules has been explained in a Division Bench decision of this Court reported in Basiruddin v. Collector of Sundergarh 1953 C.L.T. 251 where was held that once a dispute about the rights of the parties to receive compensation money is raised before the Land Acquisition Officer, he has no alternative but to refer the same to Government for adjudication by an arbitrator-unless it was manifest that the person raising the dispute had absolutely no claim and his objections were frivolous. But here the Land Acquisition Officer himself found that the Petitioner was in possession of the disputed land and hence his claim to compensation cannot be said to be frivolous. The further questions as to whether there was a valid surrender by the recorded tenant and whether in consequence of the same the Petitioner was entitled to receive the full amount of compensation, are matters to be decided by the Arbitrator after enquiry in due course. We need not express any opinion on these questions. It is sufficient to say that the Petitioner has fulfilled the conditions required by the later part of Rule 6 and that the Land Acquisition Officer failed to exercise the jurisdiction vested in him, in omitting to make a reference to Government.

4. A writ will therefore issue directing the Land Acquisition Officer Hiraikud Land Organisation, to proceed with the matter in accordance with the latter part of Rule 6 and refer the dispute about the Petitioner's claim to receive compensation to Government, as provided in Rule 9, for adjudication by an Arbitrator. The petition is allowed, but there will be no order for costs.

Das, J.

5. I agree.

6. Petition allowed.