
(2019) 08 CHH CK 0112
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 2674 Of 2019

Kartik Ram Sen

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 19-08-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 30

Citation : (2019) 08 CHH CK 0112

Hon'ble Judges : Goutam Bhaduri, J

Bench : Single Bench

Advocate : Kshitij Sharma, Akshara Amit

Final Decision : Disposed Of

Judgement

Goutam Bhaduri, J

1. Heard.

2. The short resume of the facts are that an award was passed in favour of Baharu Sahu (since deceased). The petitioner herein namely Kartik Ram Sen is claiming through one Harku Sen. It is contended that a part of the land which was subject of acquisition was sold by Sukhram to Baharu, however, though the part of land was sold, the entire land was recorded in name of Baharu, which resulted into passing of an award in entirety in favour of Baharu. The mutation of the name in respect of Baharu in revenue records was subject of challenge before the Tehsildar, wherein the Tehsildar declined to entertain the objection of the petitioner, which was subject of appeal vide Annexure P-5 before the SDO, Abhanpur. The SDO, Abhanpur vide order dated 30.06.2010 has set aside the order of the Tehsildar and directed for recording of the name of Kartik Ram Sen in respect of the subject land, thereby right of the petitioner was recognized. The order of the SDO was further assailed by legal heirs of Baharu before the Additional Commissioner, which is still pending. It is further contended that on the basis of the mutation of the name, the legal heirs of Baharu are claiming the

entire compensation of land acquired, for which they are not entitled. It is stated therefore that the petitioner would be entitled for some part of compensation while rest would be payable to the legal heirs of Baharu. So, eventually in respect of the rest of the land, which is not sold, the petitioner would be entitled.

3. Perused the documents filed along with the writ petition. It appears that the dispute of the apportionment of the claim with respect to the compensation of the acquisition of the land is in issue. Admittedly, the acquisition of the land was made under the Land Acquisition Act, 1894 (for short 'the Act, 1894) and the dispute as has come to fore is to apportionment of such claim. Section 30 of the Act, 1894 takes within its sweep to dissolve such kind of dispute, which reads as under:-

"30. Dispute as to apportionment.- When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the Court."

4. Perusal of the document would show that by Annexure P-11 dated 03.01.2018 an application was preferred before the SDO and the pith and substance of the application revolves around the claim to the apportionment of compensation. Under the circumstances, the right of the parties can be decided on subject issue after the evidence are being led by parties to justify each others claim. Therefore, it is the civil Court which can adjudicate the right of the parties as also the apportionment. Consequently, as per the object of Section 30 of the Act, 1894, the issue is referred to the Civil Court having jurisdiction to try and decide it and it is directed that the Civil Court shall adjudicate the right of the parties with respect to the respective claim of parties which necessarily means about in respect of the compensation for the land acquired. The reference of the dispute should be made within a further period of 45 days by the respondent No.3 to the Court having jurisdiction and the Court shall decide the same in accordance with law.

5. With the aforesaid observation, the writ petition stands disposed of.