

(2004) 01 JH CK 0095
In the Jharkhand High Court
Case No : Writ Petition (C) 2611 of 2001

Kisto Pada Pramanik and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-01-2004

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 11A

Citation : (2004) 1 JCR 445

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : P.K. Prasad, for the Appellant; MD. Shamim Akhtar, for the Respondent

Judgement

1. Heard the learned counsel for the parties.
2. The background of the matter is that a large chunk of land situated at Dindli in the district of Singhbhum was acquired by the State Government in the year 1964 for public purpose viz. for construction of houses under different houses scheme but since no award was prepared with the period as provided u/s 11A of the Land Acquisition Act and therefore, a writ application was filed before the Ranchi Bench of the Patna High Court being CWJC No. 1882 of 1986(R) by some of the awar-dees for declaration that the entire land acquisition proceeding to be ultra virus and without Jurisdiction in view of the expressed provision of u/s 11A of the Land Acquisition Act 1894 as amended by the Land Acquisition (Amendment Act 1984). A Division Bench of the Ranchi Bench of the Patna High Court by its Judgment dated 21.5.1997 allowed the writ application holding that in view of Section 11A of the Land Acquisition Act, the entire acquisition proceeding in which declaration was made prior to 24.9.1984 have lapsed, as the award was not been made within two years from that date, therefore, the proceeding lapsed.
3. Bihar State Housing Board for whom land was acquired as well as State of

Bihar and others moved, before the supreme Court of India in Civil appeals No. 1005-6 of 1988 which was disposed of on 21.3.1988, whereby the Supreme Court having regard to the fact that public interest was involved, upheld the acquisition of land subject to the following conditions:--

"(i) that compensation for the said acquisitions should be paid as if the acquisitions were made as on 1.3.1988.

(ii) that such compensation to be determined by the Land Acquisition Collector in accordance with law within a period of six months from this date.

(iii) that after determining such compensation subject to any legal objection if any, the compensation should be paid to the respondents within three months thereafter.

The respondents will make their claims and the parties will appear on 16.4.1988 before the Special Land Acquisition Officer, Adityapur Industrial Area Development Authority, Adityapur (jamshedpur)".

4. The claims of the writ petition in this writ application are that though their lands were acquired under the aforesaid acquisition, but they have not been paid their compensation amount in terms of the order passed by the Supreme Court in Civil Appeal No. 1005-6 of 1988. On the other hand the stand of the respondents as it appears from their counter affidavit is that the petitioners did not accept the compensation amount for which several notices were issued. It is further stated that the petitioners were neither the parties in the proceeding before the Supreme Court nor in the writ application filed before this Court giving rise to the order of the Supreme Court, therefore, the petitioners cannot take advantage of the order passed by the Supreme Court. It is further stated that the respondents did not withheld the amount of compensation of the petitioners, rather the petitioners deliberately and willfully refused to accept the compensation amount. The learned counsel for the State further has drawn my attention to Annexure-C to the counter affidavit the order passed by this Court on 28.3.2001 in CWJC 531 of 2001 and submitted that exactly in the similar circumstances as in the present case Nobin Chandra Mahto also filed a writ application before this Court being CWJC No. 531 of 2001, who was also not a party either in the earlier writ application or before the Supreme Court for the same relief as has been made by the writ petitioner in the present writ petition and this Court by order dated 28.3.2003 held that the lands of the petitioner were acquired under Land Acquisition Proceeding the respondents are duty bound to pay the compensation but the petitioner cannot take advantage of the order of the Supreme Court because he was not a party before the Supreme Court in the SLP. However, the writ application was disposed of with a direction to the respondent to pay compensation to the petitioner if his land has been acquired by them under the Land Acquisition Proceeding and the petitioner was directed to appear before the Special Land Acquisition Officer, Adityapur, Industrial Area Development Authority for the aforesaid purpose. A copy of this

order has been annexed as Annexure-C to the counter affidavit.

5. It may be noted here that the learned State Counsel stated before this Court that he is ready to handover the cheque i.e. the amount of compensation payable to the two writ petitioners and he offered the same to the learned counsel appearing for the petitioners but Mr. P.K. Prasad learned counsel showed his inability to accept the cheque on the ground that he has got no instruction from his client to receive the same.

6. Considering the facts and circumstances of the case and also relying on the earlier order passed by this Court in CWJC 531 of 2001 as contained in Annexure-C to the counter affidavit, this writ application is also being disposed of in the same terms of the order passed in the aforesaid writ application and the petitioners are directed to appear before the Special Land Acquisition Officer, Adityapur, Seraikella and to make an application for payment of the amount of compensation. If such application is filed by the petitioner, the Special Land Acquisition Officer, Adityapur, Seraikella shall pay the amount of compensation to the petitioners,

7. With the aforesaid observations/directions the writ application stands disposed of.