
(2018) 05 GAU CK 0243
In the Gauhati High Court
Case No : Civil Writ Petition No. 44 Of 2018

Lalthafamkima & 22 others	Vs	APPELLANT
State of Mizoram & 3 others		RESPONDENT

Date of Decision : 02-05-2018

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 11, 18, 28A
Constitution Of India, 1950 — Article 226

Citation : (2018) 05 GAU CK 0243

Hon'ble Judges : Michael Zothankhuma, J

Bench : Single Bench

Advocate : Lalchhanliana Khiangte, K. Lalchhanhima, Vanlalfela, Lucy Lalrinpuui Zote, Ruth Lalengzami Sailo, Marina Zothanpari Ralte, C. Lalpekhlui, A.K Rokhum, Ali Hussain

Final Decision : Dismissed

Judgement

MICHAEL ZOTHANKHUMA

1. Heard Mr. Lalchhanliana Khiangte, learned counsel for the petitioners. Also heard Mr. A.K. Rokhum, learned Addl. Advocate General for the State

Government and Mr. Ali Hussain, learned counsel for the respondent No. 4.

2. At the outset, the Addl. Advocate General submits that in pursuance to the Order dated 23.04.2018 passed by this Court, he has received

instructions that no application under Section 28 A of the Land Acquisition Act, 1894 had been submitted by the petitioners in the Deputy

Commissioner's Office, Kolasib.

3. At this stage, Mr. Lalchhanliana Khiangte, learned counsel for the petitioners prays that the petitioners may be allowed to withdraw the Writ

Petition.

4. Mr. A.K Rokhum, learned Additional Advocate General and Mr. Ali Hussain, learned counsel for the respondent No. 4 object to the prayer for withdrawal, on the ground that as per the registers maintained by the office of the Deputy Commissioner, Kolasib, in which records are maintained, with regard to various communications submitted to the Deputy Commissioner's office, the petitioners Application dated 22.03.2015 for re-determination of compensation under Section 28 A of the Land Acquisition Act, 1894 does not find mention and the same has not been recorded in the said register.

5. I have heard the learned counsels for the parties.

6. The question that was to be decided in this writ petition is whether the petitioners had submitted their application dated 22.03.2015, for redetermination of the compensation awarded under Section 28 A of the L.A. Act, 1894, on 10.03.2015 in the office of the Deputy Commissioner/District Collector, Kolasib. Consequently, the prayer was for payment of enhanced compensation under Section 28 A of the Land Acquisition Act, 1894, as they had submitted their application dated 22.03.2015, within three months of the award for enhanced compensation given to similarly situated and owners in L.A. Case No. 30/2014 by the Judgment & Award dated 05.02.2015, passed by the Additional District Judge, Aizawl in L.A. Case No. 30/2014.

7. The petitioners' case in brief is that their lands, which were located within Kawnpui and Mualkhang Village Council area were acquired for construction of a new railway line from Bairabi to Sairang and accordingly, they were paid compensation for the same, as per the Draft Award No. 1/2012 (Part-B, Kawnpui and Part-E, Mualkhang), issued by the District Collector, Kolasib. The petitioners did not make any challenge to the Draft Award No. 1/2012 (Part-B, Kawnpui and Part-E, Mualkhang) either by way of any reference petition or any other proceeding. However, some other land owners, who were not satisfied with the compensation amount awarded under Draft Award No. 1/2012 (Part-B, Kawnpui and Part-E, Mualkhang) had filed a Reference Petition under Section 18 of the L.A. Act, 1894, which was taken up by the Civil Court and the Reference Petition was registered as L.A. Case No. 30/2014. L.A. Case No. 30/2014 was disposed of vide Judgment & Award dated 05.02.2015 by the Court of the

Additional District Judge-I, Aizawl, whereby the State respondents were directed to give enhanced compensation to the petitioners in L.A. Case No.

30/2014. The petitioners prayer in the present writ petition is for enhancement of the compensation amount under Section 28A of the LA Act, 1894, as

had been granted in L.A Case No. 30/2014, on the ground that they had submitted an application to the office of the Deputy Commissioner, Kolasib,

for enhancement of the compensation amount within 3 (three) months from the date of the Judgment & Award dated 05.02.2015, passed in LA Case

No. 30/2014. The Annexure-10 of the Writ petition is the Application dated 10.03.2015, allegedly submitted by the petitioners, claiming enhancement

compensation under Section 28 A of the LA Act, which allegedly carries the date 10.03.2015, allegedly stamped by the Office of the Deputy

Commissioner, Kolasib, which implies that the application under Section 28A was submitted in the office of the Deputy Commissioner/District

Collector, Kolasib, and recorded in the Receipt Book on 10.03.2015.

8. Section 28A provides for payment of compensation in excess of the amount awarded by the Land Acquisition Collector under Section 11 of the Act

to those persons/applicants interested in all the other lands covered by the same notification under Section 4, sub-section (1) and who are also

aggrieved by the Award of the Collector, notwithstanding the fact that they had not made an application to the Collector under Section 18, if those

persons by written application to the Collector, within three months from the date of the award of the Court, require that the amount of compensation

payable to them may be re-determined on the basis of the amount of compensation awarded by the Court. Thus, the petitioners case is that though did

not make any claim for enhanced compensation, the petitioners are also legally entitled to payment of enhanced compensation as had been given to the

petitioners in L.A Case No. 30/2014, as they are similarly situated and as they had submitted their application dated 10.03.2015, within three months

of the Judgment and Award dated 05.02.2015 passed in L.A Case No. 30/2014, as required under Section 28 A of the L.A Act, 1894.

9. The Additional Advocate General has produced 2 registers maintained by the office of the DC, Kolasib, by the office of the DC, Kolasib, by which

communications sent to the Deputy Commissioner's office are recorded. The 2 (two) registers records receipt of communications, documents,

bills, reports etc., and they are serially numbered. The two registers produced by the Additional Advocate General is with regard to the receipts

pertaining to the periods from 03.11.2014 to 31.03.2015 and 01.04.2015 to 03.09.2015. On a perusal of the Register pertaining to the date 10.03.2015,

it is seen that no such application under Section 28 A was submitted to the Deputy Commissioner's office by the petitioners on 10.03.2015, as

there is no mention of the same.

10. Para-5 of the Writ petition states that the petitioners had submitted an Application dated 10.03.2015, praying for enhancing the

compensation amount under Section 28 A of the LA Act, 1894 and the same has been supported by way of an affidavit. However, the submissions

made by the petitioners on oath are not backed up by the records, maintained by the Deputy Commissioner, Kolasib. This implies that the petitioners

are trying to play a fraud upon this Court and abusing the process of this Court. In the case of K.D. Sharma Vs. Steel Authority of India Limited &

Ors, reported in 2008 12 SCC 481, the Apex Court has held that the party, who invokes the extra-ordinary jurisdiction under Article 226 is supposed to

be truthful, frank and open. He should not be allowed to play hide & seek with facts. If material facts are suppressed or distorted, the very

functioning of the writ Court would become impossible. The Apex Court has also held that the writ Court has inherent power in order to protect itself

and to prevent the abuse of its process to discharge rule nisi and refuse to proceed further with the examination of the case on merit. If the Court does

not reject the petition on that ground, the Court would be failing in its duty. The Apex Court further held that in fact, such applicant requires to be dealt

with for contempt of Court for abusing the process of the Court.

11. In the present case, the petitioners have blatantly tried to mislead this Court by stating a false fact, as can be seen from the registers produced in

the Court. A perusal of the Application dated 10.03.2015 shows that no receipt serial/number was given to the petitioners Application dated

10.03.2015. There is no signature of any person who might have received the application. This further clarifies the fact that no such application had

been submitted to the Deputy Commissioner's office. The attempt by the petitioners to abuse the process of this Court cannot be wished away

lightly. Though the observation of the Apex Court that an attempt to abuse the

process of the Court requires to be dealt with for contempt of Court,
this Court is of the view that imposition of costs on the petitioners would also meet the ends of justice for trying to play a fraud upon this Court.

12. The prayer for withdrawal is accordingly not allowed.

13. In view of the reasons stated above, the Writ Petition is dismissed with costs of Rs. 500/- each, to be paid by each of the petitioners, thereby

paying the total cost of Rs. 11,500/-, to the Registry of this Court, on or before 14th June, 2018. The same should thereafter be submitted by the

Registry to the account of the Mizoram State Legal Services Authority.