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**(2012) 08 JH CK 0015**

**In the Jharkhand High Court**

**Case No : Writ Petition (C) No. 419 of 2007**

**Maresh Prasad Daga**

**APPELLANT**

**Vs**

**State of Jharkhand and Others**

**RESPONDENT**

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**Date of Decision : 01-08-2012**

**Acts Referred:**

Land Acquisition Act, 1894 — Section 12, 18

**Citation : (2013) 1 AJR 374**

**Hon'ble Judges : Aparesh Kumar Singh, J**

**Bench : Single Bench**

**Advocate : Shailendra Kumar Singh, for the Appellant;**

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**Judgement**

Aparesh Kumar Singh, J.—Heard the counsel for the parties. The instant writ petition has been preferred for quashing the notice dated 21.8.2003 (Annexure-6) issued by the Collector, Giridih reducing the amount of compensation awarded to the petitioner to Rs. 1,91,119.50 from the awarded amount of Rs. 3,30,330/-, which was half of the total amount of Rs. 6,60,660/- awarded in respect of acquisition of land in question, half being apportioned to the share of his brother, Dinesh Prasad Daga.

2. The reason for being aggrieved on the part of the petitioner is that after the award was made vide Annexure-4, the same was reduced as it appears from the notice contained in Annexure-6 issued under 12(A) of Land Acquisition Act, 1894, without any notice or opportunity to the petitioner to show-cause.

3. Learned counsel for the petitioner submitted that in case of any correction in the awarded amount delivered u/s 12 of the Act, the Collector has power to correct the same under the provisions of Section 12, which is quoted herein below:--

Sec. 12:--Award of Collector when to be final -- (1) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested,

whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Sec. 12-A:-- State Amendments - (Bihar) -In its application to the State of Bihar, after Section 12, insert the following section, namely:--

12-A. Correction of award (1) The Collector may, before a reference, if any, is made u/s 18--

(i) on his own motion, within six months from the date of the award, or (ii) on the application of the person interested made within six months from the date of the award, correct any clerical or arithmetical error in the award.

(2) The Collector shall give immediate notice of any correction made in the award to all persons interested.

(3) Where, as a result of correction made under sub-section (1), it appears to the Collector that any amount has been paid in excess to any person, such person shall, after having been given an opportunity of being heard, be liable to refund the excess and if, on an order made by the Collector in his behalf, he fails or refuses to pay it, the same shall be realized as a public demand.

4. However, the Collector has modified the amount by reducing the amount originally awarded without giving opportunity to show-cause or notice. Petitioner has not received the original award nor he has received the reduced award. It is also submitted that brother of the petitioner had on the other hand received the original awarded amount of Rs. 3,30,330/- in lieu of acquisition of the said land in question, which was also sought to be reduced by the Collector against which he has preferred W.P.C. No. 4680 of 2003. It is submitted that this Court vide order dated 31.3.2011 remanded the matter to the Collector, Giridih with a liberty to take decision in the matter after giving due opportunity to the said petitioner, as it was found that the awarded amount has been reduced without giving opportunity to show-cause or notice and was sought to be recovered from the said petitioner. On the basis of the aforesaid facts, learned counsel for the petitioner submitted that the impugned notice is liable to be set aside, since the awarded amount has been reduced contrary to the provisions of Section 12-A and other provisions of the Act of 1894.

5. Learned counsel for the respondents, however is not able to dispute the aforesaid contention that the said impugned notice issued u/s 12-A had been issued without opportunity to show-cause or notice to the petitioner.

6. In the aforesaid facts of anomaly and lacuna in the impugned notice, there is no reason for denying the relief sought for by the petitioner, since similar relief

has been granted to his brother, Dinesh Prasad Daga in W.P.C. No. 4680 of 2003. Accordingly, the impugned notice contained in Annexure-6 dated 31.8.2003 is quashed.

7. However, the collector is at liberty to take decision in the matter afresh by giving due opportunity to the petitioner to show-cause. The said process may be completed as expeditiously as possible preferably within 3 months from the date of production of copy of the order of this Court. This writ petition is accordingly, disposed of with aforesaid liberty.