

(2003) 01 JH CK 0142
In the Jharkhand High Court
Case No : CWJC No. 781 of 2001

Manmasi Lakra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-01-2003

Acts Referred:

Requisitioning and Acquisition of Immovable Property Act, 1952 — Section 8

Citation : (2003) 1 JCR 553

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : P. Gangopadhyaya, for the Appellant; R.K. Prasad, Arvind Kumar Jha, Subha Jha and Manjul Prasad, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J. 1. Heard Mr.P. Gangopadhyaya, learned counsel for the petitioner, Mr. Ram Kishore Prasad, learned Additional Central Government Standing Counsel for the respondent No. 1, Mr. Ar-vind Kumar Jha and Mrs. Subha Jha, learned counsel for the respondent No. 2 as also Mr. Manjul Prasad, learned counsel for the respondent Nos. 3 and 4.

2. In this writ application the petitioner has prayed for appointment of an arbitrator under the provisions of Section 8(i)(b) of the Requisition and Acquisition of Immovable Properties Act, 1952 in respect of the land measuring 9.73 acres of Plot Nos. 3, 246. 247,250 and 264 of Khata No. 15 of Mauja Sidrol, P.S. Namkum, District Ranchi.

3. According to the petitioner (Manmasi Lakra son of Late Harun Lakra), the lands in question were owned by his father (Harun Lakra) together with his co-sharers and these lands were acquired by the Ministry of Defence for which requisition had been made in the year 1942 and subsequently they were acquired for the construction of Military Camp under the provisions of Section 7 of the said Act. The petitioner has further stated that Form I had been issued to

his father and his co-sharers in the year 1986-87 vide Land Acquisition Case No. 8(Mty)/1986-87. The further case of the petitioner is that these lands having been requisitioned in the year 1942, the predecessors-in-interest of the petitioner as also those of his co-sharers were given recurring crop compensation time to time till 1984-85 as per the rates fixed by the Government. But, in the year 1985-86 it was not paid as a result whereof the petitioner's father and his co-sharers alongwith other co-sharers approached the Deputy Commissioner but they did not take any steps either for payment of just and fair compensation or for referring the matter for appointment of Arbitrator or for payment of crop compensation. In the year 1986, the Special Land Acquisition Officer, Ranchi! (respondent No. 4) issued Form I to the father of the petitioner vide Land Acquisition Case No. 8(Mty)/1986-87 in which compensation was said to be fixed by the Deputy Commissioner. The said notice was received by the petitioner's father on 27.11.1986 vide Annexure 1. It appears from the said notice that the same was issued to Habil Mahto and others also. Considering the compensation to be not just and fair, they filed an objection on 15.12.1986 vide Annexure 2, but without any positive result. Thereafter the petitioner's father and his other co-sharers visited the office of the respondent Nos. 3 and 4 from time to time and continued filing objection vide letters dated 26.8.1988, 9.4.1991 and 23.8.1995 (Annexures 3 Series), but no steps were taken by the respondents, either to refer the matter to Arbitration or to make payment of just and proper compensation. Consequently, a few villagers filed CWJC No. 1386 of 1989(R) which was allowed by an order dated 1.11.1989 holding that the authorities could not have ignored the objection of the petitioner and could not have passed final orders without giving an opportunity as required under the Proviso to Section 7(1). Consequently, the Deputy Commissioner, Ranchi was directed to pass appropriate orders after complying with the provisions of the said Section. The order dated 1.11.1989 is Annexure 4 to the writ application.

4. The Deputy Commissioner, Ranchi on 4.3.1992 passed an order in Land Acquisition Case No. 7(Mty)/1986-87 rejecting the Objection of the Land Losers/ Claimants which was challenged vide CWJC No. 1543 of 1992(R) before the then Ranchi Bench of the Patna High Court. That case was again allowed and the respondents were directed to take immediate steps for appointment of Arbitrator in accordance with law. According to the petitioner, the abovementioned order clearly stipulates that compensation can be determined only by the Arbitrator.

5. Keeping in view the aforementioned order/orders, the petitioner and his co-sharers visited the office of the respondent No. 3 from time to time but nothing happened. The petitioner further stated that their father and his co-sharers have not signed "K" Form nor they have signed any other agreement in relation to any payment of compensation. However, in respect of the entire area, i.e., 6.36 acres situated on Plot Nos. 322, 323, 324, 337, 368, 392 and 446 of the same Khata, the petitioner alongwith other co-sharers had moved this Court for appointment of Arbitrator vide CWJC No. 251 of 1998(R). The said writ application was dismissed on 28.11.2000 for not having filed the Objection within time. The said

order is Annexure 1 to the writ application.

6. The petitioner has stated that even after dismissal of the aforementioned CWJC No. 251 of 1998(R), this Court has allowed the prayer for appointment of Arbitrator in the case of Mahadeo Oraon and others vide CWJC No. 4419 of 2000.

7. The learned counsel for the respondents have all in one voice stated that this writ petition should be dismissed outright as admittedly the acquisition was made in the year 1942 and subsequently Form I was issued in 1986-87 and this writ petitioner has moved this Court in the year 2001, it, therefore, suffers from gross delay and consequently it should not be taken into consideration. They have further stated that the father of the petitioner, namely, Harun Lakra was the petitioner No. 4 in CWJC No. 251 of 1998(R) and although that case related to Plot Nos. 322, 323, 324, 337, 368, 392 and 446, while this case relates to Plot Nos. 3, 246, 247, 250 and 264, yet the fact remains that both pertain to the same Khata and this Court dismissed the writ application on the ground of delay. In this case also, even if the case of the petitioner is taken to be correct, even then it will appear that the last objection that appears to have been filed is on 23.8.1995 vide Annexure 3/2. The writ application has been filed in the year 2001. The first objection appears to have been filed in the year 1986 when the land was acquired. The father of the petitioner moved this Court for similar relief, although in relation to different lands, and that was dismissed on 28.11.2000.

8. In that view of the matter, no relief can be granted to the writ petitioner in this writ application. Consequently, this writ application is dismissed.