

(2019) 06 MAN CK 0004

In the Manipur High Court

Case No : Writ Petition (c) No. 239 Of 2013, 281, 474 Of 2014

Md. Baharul Islam And Others

APPELLANT

Vs

State Of Manipur & Ors And Others

RESPONDENT

Date of Decision : 14-06-2019

Acts Referred:

Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 4(1), 4(2), 9, 24(1)(a)
Land Acquisition Act, 1894 — Section 11A

Citation : (2019) 06 MAN CK 0004

Hon'ble Judges : Ramalingam Sudhakar, CJ

Bench : Single Bench

Advocate : Jallaluddin, B.Kirankumar Sharma, S.Nepolean, Tejpriya

Final Decision : Disposed Off

Judgement

[1] The prayer in W.P(C) No.239 of 2013 read as follows.

"It is, therefore, prayed that Your Lordships would kindly the respondents to pay adequate compensation to the petitioner for his affected patta lands as well as damages caused to him for the said construction of the godown.

AND

In the interim, the construction works now taken up over the affected patta land of the petitioner be stayed till the final payment of adequate compensation with interest in the interest of justice."

[2] The prayer in W.P(C) No.281 of 2014 read as follows.

(i) issue Rule calling upon the respondents to show cause as to why a writ in the nature of Mandamus or any other appropriate writ, or direction should not be issued directing the State respondents for taking necessary steps for preparation of the final Award and payment of the compensatory amount to the petitioner in lieu of the land acquired and utilized by the respondents for construction of 5000

MT capacity of CAF & PD Godown at Village No. 13-Babupara, Jiribam, Imphal East, as per the provision laid down under Section 24(1)(a) of the Land Acquisition, Rehabilitation & Resettlement Act, 2013 within a fix period of two months."

[3] The prayer in W.P(C) No.474 of 2014 read as follows.

" It is therefore, prayed that Your Lordships would kindly direct the respondents to pay adequate compensation for the damages of the petitioners in the following manners in the interest of justice:

- i) For the damages of their patta land to a sum of Rs.5,00,000/-.
- ii) For the complete damage of 2(two) fish ponds to a sum of Rs.2,55,960/-.
- iii) For the lost of annual income by selling of fish from the said 2(two) ponds to a sum of Rs.3,00,000/-.
- iv) For the lost of growing trees to a sum of Rs.3,00,000/-and
- v) For the lost of growing Horticultural crops to a sum of Rs.3,00,000/-."

[4] The three petitioners claim to be owner of patta lands in Jiribam Tehsils. According to the petitioners, the respondents, Collector, Land Acquisition issued proceedings for acquisition of patta lands said to be owned by the petitioners separately. The cause of action for issuing the acquisition is stated for construction of 5000 MT capacity godown for Consumer Affairs, Food & Public Distribution at Jiribam. According to the petitioners, no notice was issued or served by the respondents for acquisition of patta lands of the petitioner. What has been served is Section 9 notice for taking possession. When the authorities attempted to take possession, the petitioners faced with a difficulty, they have come before this Court for the above reliefs. Learned senior counsel states that the petitioners are agreeable for acquisition of lands but they should been given compensation. In respect of the grievance of the petitioner in W.P(C) No.239 of 2013, a representation was given on 23.6.2011 Annexure-A/2 to the Deputy Commissioner (Land Acquisition), Imphal East District and Addl.DC, Jiribam, Imphal East District.

[5] In W.P.(C) No. 281 of 2014, a representation was given on 28.3.2014, Annexure-A/9 to the Commissioner/Principal Secretary (Revenue).

[6] In W.P(C) No.474 of 2014, the petitioner and villagers submitted a representation dated 21.6.2011, Annexure-A/4 to the Hon'ble Minister, Revenue, Law, Govt. of Manipur. Another representation was made to the Deputy Collector, Land Acquisition, Imphal East District on 21.6.2014 Annexure, A/4. Subsequently, another representation at Annexure-A/6 was made to the Deputy Commissioner, Imphal East District on 16.5.2012. In all these cases, the petitioners seek compensation stating that the lands belong to them.

It is therefore pleaded that these lands which were taken up for construction as

godown as aforesaid, the actual lands owners should be given compensation.

[7] On the contrary, the reply affidavit makes it clear that land acquisition proceedings have lapsed on account of failure on the part of the acquiring body to deposit the money. The relevant paragraphs of the reply affidavit filed in W.P(C) No.281 of 2014 are extracted as below:-

"3. That, with reference to para No. 3 of the writ petition, it is humbly submitted that the office of the Collector, Imphal East in pursuance to Revenue Department, Government of Manipur Notification No. 4/22/LA/2011-Com. (Rev) dated 09-05-2011 issued another Notification No. DC (IE)12/120/2011 dated 31-05-2011 under Section 4(1) and (2) notifying that land measuring an area of 4.45 acres at 13-Babupara Village, Jiribam, ,Imphal East is likely to be need for public purpose of construction of 5000 Metric Ton Capacity Godown of Consumers Affairs, Food Public Distribution system (CAF& PD in short).

4. That the reference to para No. 4 of the writ petition, it is humbly submitted that the special Notice No. DC (IE)/12/120/2011 dated 06-12-2011 was issued under Sec. 9 of the Land Acquisition Act, 1984 to the possessor of the land to be taken through acquisition by the Government by notifying that the Government intends to take possession of the land and all persons interested to appear in person or by an authorized agent 20-12-2011 to state their nature of respective interest in that land and particulars of their claims for compensation and calling their objections (If any) to the measurement made under Sec. 8 of the Land Acquisition Act, 1894 . It is clarified that the said special notice was issued by Collection, Land Acquisition, Imphal East District and not by the Deputy Commissioner, Imphal East.

A true of special Notice dated 06-12-2011 is enclosed herewith and marked as ANNEXURE-R/1

5. That, with reference to para No. 5 of the writ petition, it is humbly submitted that there is no comment as the same are matter of records.

6. That, with reference to para No.6 of the writ petition, it is submitted that the Revenue Department, Government of Manipur vide letter No. 4/20/LA/2011-com (Rev) dated 19th March, 2012 approved the market value of land @ Rs.40,98,262.37 per hectare or Rs.38.075 per sq.ft. excluding solatium and interest.

A true copy of letter No. 4/20/LA/2011-com (Rev.) dated 19th March, 2012 is enclosed herewith and marked as ANNEXURE-R/2.

7. That , with reference to para No. 7,8 and 12 of the writ petition, it is humbly submitted that the land acquisition process for construction of 5000 MT capacity Godown of CAF &PD was not withdrawn however, it has been lapsed on 5th Sept. 2013 as per the provisions of Sec. 11A of the Land Acquisition Act, 1894.The office of the Collector, Land Acquisition, Imphal East vide letter No. De(IE))/12/120/2011 dated 24-03-2012 and 04-09-2012 requested the

Director(CAF&PD), Manipur to deposit an amount of Rs 1,04,87,961/- (Rupees one crore four lakhs eighty-seven thousand nine hundred and sixty-pne) only payment of land compensation to the affected pattadar. However, till 5th Sept., 2014 no such amount was deposit to the Office of Collector, Land Acquisition, Imphal East, as a result of which award could not be announced and in the meantime, the land acquisition proceeding has been lapsed as per the provisions of Section 11A of the Land Acquisition Act, 1894.

True copy of letter dated 24-03-2012 and 04-09-2012 are enclosed herewith and marked as ANNEXURE-R/3 and R/4 respectively.

The statement of the petition that the entire acquisition process is completed is denied as the said acquisition process has been lapsed before the announcement of award. Further, the Collector, Imphal East also denied the statement of the petitioner that the possession of the land is taken over by the Government as the Collector, Imphal East neither issued any orders nor authorized any persons to take over the land of the petitioner as required under Sec. 16 of the Land Acquisition Act, 1894.

8. That, with reference to para No. 9 of the writ petition, it is submitted that the Right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 comes into effect from 1st Jan., 2014. The present land acquisition proceeding has been initiated in the year 2011 i.e., 31-05-2011. Hence, the provisions of Section 24(1)(a) of the right to Fair Compensation and Transparency in Acquisition, Rehabilitation and Resettlement Act, 2013 is not applicable in the present case.

9. That, with reference to para No.10 of the writ petition, it is submitted that the Collector, Imphal East neither issued any orders nor authorized any persons to take possessions of the land under acquisition as required under Sec. 16 of the Land Acquisition Act, 1894.

10. That, with reference to para No.11 of the writ petition, it is submitted that the Office of the Collector, Imphal East vide letter No.DC(IE)12/120/2011 dated 19-09-2013 has informed the Acquiring, Department that acquisition proceedings for construction of 5000 MT capacity Godown of 13-Bapura, Jiribam has been lapsed due to the failure of Department to deposit the required compensation amount. The acquiring Department was informed to submit fresh proposal for acquisition if deemed necessary.

It is pertinent to mention herein that the Revenue Department has requested the acquiring Department has requested the acquiring Department to submit fresh proposal for acquisition of land if it intends to acquire the proposed land. Reply is still awaited from the acquiring department.

Further, it is submitted that the office of the Collector, Imphal East also requested the Director, CAF & PD (Acquiring Department) vide letter of even number dated 3rd July, 2014 to convey the decision of the Department as the whether the

Department still has the intention to acquire the proposed land. Reply from the Acquiring Department is still awaited."

[8] In view of the above, it is clear that acquisition proceedings have lapsed due to inaction on the part of the acquisition body.

[9] In W.P(C) No.239 of 2013, para No.8 of the reply affidavit is extracted as below:-

"8. That with reference to para No.11 of the writ petition, the deponent humbly states that since there was no response from the acquiring department despite the issuance of letters dated 24-03-2012 and 04-09-2012 for depositing the amount for payment of compensation so as to enable the office of DC/IE to make the award, the office of the deponent vide letter No.DC(IE)/12/120/2011 dated 19-09-2013 intimated the Director, CAF & PD, Govt. of Manipur regarding the lapse of acquisition proceeding on 05.05.2013 and further informed to make a fresh proposal if the acquisition is deemed necessary."

[10] In W.P(C) No.474 of 2014, para No.10 of the affidavit-in-opposition is extracted as below:-

"10. That, with refernece to para No.12 of the writ petition, it is humbly submitted that time and again, vide letter dated No.DC(IE)/12/120/2011 dated 24-3-2012 & 4.9.2012 requested the Director, CAF & PD to deposit an amount of Rs.1,04,87,961/-for payment of land compensation to the affected pattadars but till 5th September, 2013, no amount has been deposited to this office as a result of which award could not be announced and hence the proceedings has been lapsed as per the provisions of section 11A of the Land Acquisition Act, 1894."

[11] A reading of the above three reply-affidavits makes it clear that in respondents have fairly stated that the land acquisition proceedings have lapsed due to non-compliance of the requirement of deposit of the awarded money. As a result, the petitioners are at liberty to work out their own remedy by making further representation to the Principal Secretary/Commissioner (Revenue), Govt. of Manipur, respondent No.1 for release of their lands if it is still under occupation of any of the above departments concerned.

[12] Since the respondent department have themselves stated that the acquisition proceeding have lapsed, the question of directing payment of compensation does not arise. However, if some construction was put on the petitioner's land and there is damage caused, the petitioners are entitled to issue notice for compensation for the damages that has been caused to their land and thereafter, pursue the remedy before the Court of competent jurisdiction as evidence will have to be recorded on the nature of damages so as to determine the quantum of compensation, if it arises in these cases.

[13] All three writ petitions stand disposed as above.