
(2020) 01 JH CK 0094
In the Jharkhand High Court
Case No : Writ Petition (C) No. 5833 Of 2019

Md. Rabbani Ansari

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 08-01-2020

Acts Referred:

National Highways Act, 1956 — Section 3G

Citation : (2020) 01 JH CK 0094

Hon'ble Judges : Rajesh Kumar, J

Bench : Single Bench

Advocate : A.K. Sahani, Sahii

Final Decision : Disposed Of

Judgement

The present writ petition has been filed for quashing the order dated 10.06.2019 (Annexure-8 to the writ petition) passed by the respondent No.2 in

N.H.A. Case No. 58-01/2019-20 whereby the petitioner's claim for compensation in relation to the house/structure standing over the land has

been rejected on extraneous ground. Further prayer has been made for issuance of direction upon the respondents to pay actual amount of

compensation to the petitioner for the land appertaining to Khata No. 43, Plot No. 2142/2, P.S. No. 104, Mouza-Haisla, Circle-Bagodar, District-

Giridih, measuring an area of 0.01275 acre as well as the structure standing over the same which was acquired for the purpose of widening of NH-2.

Learned counsel for the petitioner submits that earlier the petitioner had preferred a writ petition being W.P.(C) No. 928/2019 before this Court due to

non-payment of compensation by the State authorities in lieu of acquisition of his aforesaid land. The said writ petition was disposed of by this Court

vide order dated 05.04.2019 directing the respondent No.2 to take final decision

on its own merits within a period of eight weeks from the date of receipt of a copy of the order. Thereafter, the respondent No.2 while exercising jurisdiction under Section 3-G of the National Highways Act, 1956, passed the impugned order dated 10.06.2019 in a cryptic manner merely observing that the nature of the said land has been mentioned in the Khatiyani as "Dhankheti" which is an agricultural land and therefore till any law is enacted in relation to change in the nature of the land, the Khatiyani nature of the land is to be reckoned for the purpose of payment of compensation. It is further submitted that the respondent No.2 appears to have erroneously construed the nature of the claim made by the petitioner. In fact, the petitioner has made a claim for compensation in relation to the old structure standing over the said land which is also the part of the acquisition. The claim of the petitioner is not in relation to the nature of the land, whether residential or agricultural, rather his claim is to the extent of payment of compensation for the structure standing over the same. The respondent No.2 while passing the impugned order dated 10.06.2019, neither called for any record nor made any enquiry so as to reach the factual conclusion for the purpose of entertaining the petitioner's claim of compensation.

Learned A.C to G.A-III submits that since the award has already been prepared in favour of the petitioner, a copy of which has been annexed as

Annexure-1 to the writ petition, the respondent No.2 has rightly passed the impugned order dated 10.06.2019 treating the said land to be an agricultural one observing inter alia that the petitioner is entitled for compensation on the agricultural rate as the nature of the said land has been mentioned as "agricultural" in the Khatiyani.

Heard learned counsel for the parties and perused the contents of the present writ petition. The application submitted by the petitioner before the

respondent No.3 suggests that the same was for payment of compensation in relation to the house standing over the land in question. The respondent

No.2 while passing the impugned order dated 10.06.2019, appears to have misdirected himself in entering into the issue of the nature of the said land.

The specific case of the petitioner is that he does not claim further compensation in relation to the said land, rather his subsisting claim is in relation to

non-payment of compensation for the house/structure standing over the said

land. The impugned order dated 10.06.2019 does not disclose any consideration by the respondent No.2 on the issue of non-payment of compensation for the house/structure standing over the said land as claimed by the petitioner. On this score alone, the impugned order dated 10.06.2019 cannot sustain in law and the same is hereby quashed and set aside. The matter is remanded to the respondent No.2 to pass a fresh informed order with regard to the petitioner's claim for compensation in relation to the house/structure standing over the said land after providing due opportunity of hearing to the petitioner/his representative preferably within a period of twelve weeks from the date of receipt/production of a copy of this order. The present writ petition is accordingly disposed of with aforesaid observation and direction.