
(2012) 09 JH CK 0236

In the Jharkhand High Court

Case No : Writ Petition (C) No. 3652 of 2003

Nageshwar Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-09-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 30

Citation : (2013) 1 AJR 385 : (2013) 1 JLJR 278

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Kailash Prasad Deo, for the Appellant; Manish Kumar, State, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. Petitioner has approached this Court with a prayer that the Land Acquisition Officer, Deoghar be directed to make reference u/s 30 of the Land Acquisition Act, 1894 for the dispute relating to the apportionment of the compensation amount in connection with Land Acquisition Case No. 6 of 2001-02 pending before the Court of L.A. Officer, Deoghar. The reason for seeking such prayer are that in relation to land in question the State of Jharkhand had initiated acquisition process for construction of railway project i.e. Deoghar-Dumka Railway line for the area appertaining to Jamabandi No. 12 of Mauza Alkoi, Thana No. 924 under P.S. Mohanpur, Subdivision and District-Deoghar. It is the contention of the petitioner that he and the other private respondents are descendents of recorded tenant Ruplal Yadav who died in the year 1950 leaving behind 4 sons. The petitioner is the grandson of one of the sons of Ruplal Mahto namely Chano Mahto. It is the further case of the petitioner that the private respondent No. 4 Kalia Devi is the daughter of one Chunari Devi, who was the daughter of Jhaksu Mahto and he predeceased the original tenant, Ruplal Mahto in the year 1934 itself. It is the contention of the petitioner that the said Kaila devi, therefore, does not inherit any right in the property of Ruplal Mahto as her maternal grand-father and maternal great grand-father died before coming into force of the Hindu

Succession Act, 1956. During the course of acquisition objections were raised by the petitioner but Land Acquisition Officer prepared statement vide Annexure-5, wherein certain compensation has also been apportioned in the name of Kalia Devi. However, by referring to Annexure-4, order sheet date 20.11.2002 in L.A. Case No. 6 of 2001, it has been submitted that disbursement of compensation has been kept pending by the order recorded at serial No. 4 having objection Nos. 1, 2, 3, 4, 5, 6, 15 and 20 with respect to Jamabandi No. 12. Petitioner has apprehension that the amount would be disbursed without proper apportionment of the compensation and wrongly in favour of Kaliya Devi and in that view of the matter, petitioner is seeking for a direction upon the L.A. Officer to make reference u/s 30 of the Land Acquisition Act, 1894.

2. Learned counsel for the respondent-State on the other hand submitted that estimated compensation of the awardees have been prepared, sanctioned and published jointly in favour of the persons as per elaborate chart contained at Annexure-A to the counter-affidavit. The petitioner's objections dated 21.11.2002 along with other was responded by the private respondent-Kalia Devi in relation to the apportionment of the compensation and after perusal of the same, order dated 28.11.2002 has been passed contained at Annexure-E to the counter-affidavit. The compensation apportionment in favour of Kaila Devi has been justified by the State on the basis of documents produced by her in respect of possession and title i.e. in the recent survey "Tasdik Parcha" as well as in the "Dhakhal Kiyari" i.e., Holder of land in question, the name of respondent No. 4 Kalia Devi was found. However, counsel for the petitioner also submitted that since survey settlement operations has not achieved finality, much importance may not be attached to such documents. Counsel for the respondent-State further submits that the petitioner has not made any claim for reference of the dispute u/s 18 of the L.A. Act, 1894 and, therefore, the petition dated 31.5.2003 was rejected by the order dated 10.6.2003. However it appears from the statement made in para 11 of the counter-affidavit that the matter can be referred u/s 30 of the L.A. Act, if directed.

3. Counsel for the respondent-Kalia Devi has justified the order passed by the Respondent-L.A. Officer stating that the apportionment of compensation has been made on the basis of document submitted by the said Kalia Devi in respect of her title and possession over the land in question. Learned counsel for the petitioner submits that the objection petition for reference have already been made before the L.A. Officer vide Annexure-3. In any case the apportionment of the compensation has finally not been done.

4. From perusal of the facts and submission of the parties, one thing is clear that the claim of compensation between rival parties is being contested on the basis of documents and papers produced by either side. In that circumstances, the L.A. Officer-Respondent No. 3 is directed to consider the objection of the petitioner for reference of the dispute before the reference Court under Sections 18/30 of the L.A. Act, 1894 in accordance with law. The case is remanded back

to the District Land Acquisition Officer to take proper decision in accordance with law.

5. It is made clear that the discussions made herein above is only for the limited purpose for directing the L.A. Officer to consider objection petition for reference under Sections 18 /30 of the L.A. Act before the competent Court by the District Land Acquisition Officer and it should not be treated as any comment on the merits of the case. This writ petition is disposed of in the aforesaid terms. I.A. No. 2153 of 2003 is also disposed of.