
(2015) 03 JH CK 0027

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1064 of 2015

Shatrughan Mahto

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226
National Highways Act, 1956 — Section 3(H)

Citation : (2015) 03 JH CK 0027

Hon'ble Judges : S. Chandrashekhar, J.

Bench : Single Bench

Advocate : Ajay Kumar Singh, for the Appellant; A.K. Verma, J.C. to S.C. (L and C), Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J.—Seeking quashing of notice dated 10.03.2015, issued by the Circle Officer, Bundu, the petitioner has filed the present writ petition.

2. The brief facts stated in the writ petition are that, the land comprised in Khata No. 352, Plot No. 1058 measuring 87 decimals situated at village Tau Khewat No. 54 under Revenue Thana No. 27, P.S. Bundu, Ranchi was recorded in the name of Gopi Mahto and others in the Revenue record. The father of the petitioner purchased 43 decimals of land out of the said land through the sada deed on 15.04.1938 from Rama Mahto and came in peaceful possession of the said land. Since the land was transferred through sada deed, through a registered sale deed on 19.09.2001 the said land was transferred by Lakhin Mahto in the name of Ramdhan Mahto. It is stated that 11 decimals of land out of the petitioner's land was acquired under Land Acquisition No. 20/2010-11 for National Highway-33. For the said acquisition a compensation of Rs. 15,68,303/- was fixed and a notice was issued to the father of the petitioner. However, no compensation was paid to the petitioner or his father still, notice dated 10.03.2015 was issued by the respondent No. 3 directing the petitioner to

remove the alleged encroachment. Aggrieved, the petitioner has approached this court by filing the present writ petition.

3. The learned counsel for the petitioner submits that though, 11 decimals of land of the petitioner was acquired and a notice was issued to the father of the petitioner on 23.02.2011, without paying compensation to the petitioner or his father, the said land has been acquired and notice dated 10.03.2015 has been issued, illegally, directing the petitioner to remove the construction over the said land. It is further stated that the petitioner submitted several representations however, the same have not been considered by the respondent-authority. In the notice dated 10.03.2015, there is no indication of any case instituted by the respondents so as to make the petitioner enable to appear in the proceeding and file his reply.

4. The learned counsel for the respondent-State of Jharkhand opposed the prayer made in the writ petition and submits that the petitioner after the land in question was acquired, became an encroacher and therefore, notice dated 10.03.2015 has been issued. It is further submitted that in response to notice issued to the petitioner on 10.03.2015, the petitioner has already filed representation on 13.03.2015.

5. From the materials brought on record, it appears that the land as claimed by the petitioner registered in the name of his father has been acquired for the National Highway-33. It has been admitted by the petitioner that compensation of Rs. 15,68,303/- was fixed for the said acquisition and a notice was given to the petitioner's father on 23.02.2011. A perusal of the notice dated 23.02.2011 makes it apparent that the said notice was issued to the persons interested in land which was acquired under Section 3(H) of the National Highways Act, 1956. The persons to whom notices were issued were directed to produce documentary evidence and other evidences in support of their claim establishing their right, title and interest over the land under acquisition. I find that the present writ petition is completely bereft of the foundational facts. After notice dated 23.02.2011 was issued to the father of the petitioner what step was taken by the father of the petitioner or the petitioner, has not been averred in the present writ petition. The submission raised on behalf of the petitioner that without paying compensation to the petitioner, 11 decimal of land has been acquired for NH-33 appears to be a plea based on suppression of material facts. The petitioner has not disclosed the events after notice dated 23.02.2011. It is the duty of a person approaching the court to disclose all the relevant facts. In *Prestige Lights Ltd. Vs. State Bank of India*, , the Hon"ble Supreme Court has held thus,

33. "It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without

any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter." 6. The present writ petition suffers from suppression of material facts and accordingly, the petitioner shall be saddled with cost. Accordingly, the writ petition is dismissed with cost of Rs. 10,000/- to be paid by the petitioner within four weeks. The cost should be deposited with JHALSA, Ranchi.

7. Let a copy of this order be given to the Member Secretary, JHALSA, Ranchi.