

(1995) 07 GAU CK 0035
In the Gauhati High Court
Case No : Civil Rule No. 5114 of 1994

Smt. Phror Kharkongor and Others

APPELLANT

Vs

O.P. Lytand and Others

RESPONDENT

Date of Decision : 04-07-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 6

Citation : AIR 1996 Guw 37

Hon'ble Judges : D.N. Baruah, J

Bench : Single Bench

Advocate : A.M. Mazumder, C.C. Deka and P.K. Saikia, for the Appellant; R.P. Kakati, C.G.S.C., H.S. Thangkhiew, G.A., B. Dutta and Meghalaya, for the Respondent

Judgement

D.N. Baruah, J.—This application is directed against the common order dated 9-9-94 passed by the Special Judicial Officer. Shillong, East Khasi Hills in L.A, Case Nos. 2-34 of 1993. Special Judicial Officer is a Court within the meaning of Section 18 of the Land Acquisition Act, 1894.

2. For the purpose of disposal of this writ application, facts may be narrated as follows :--

That land measuring 13.50 acres situated in Laitkor Peak was acquired under the provisions of the Land Acquisition Act, 1894 (for short, "the Act"). The said land belonged to the petitioners. However, before the commencement of the proceedings under the Act the land was occupied by the acquiring department on the basis of lease agreement and they used to pay rent. As the land was required by the acquiring department a notification was issued by the Collector, Shillong u/s 4 and declaration was made u/s 6. Thereafter, after inviting claim u/s 9, the Collector made an award fixing various rates i.e. Rs. 3.70 lakhs per acre or Rs.8.50 per sq. ft. as per Annexure-IV. However, this was again reduced to Rs. 5.00 per sq. ft. or Rs. 2.20 lakhs per acre in place of Rs. 3.70 lakhs. The petitioners, therefore, filed an application for referring the matter.

The matter was accordingly referred by the Collector. The Refers Court i.e. the Special Judicial Officer, Shillong (a Court within the meaning of Section 18 of the Act) rejected the reference cases by order dated 9-9-94. Hence the present petition.

3. I have heard Mr. A.M. Mazumder, learned counsel for the petitioners and Mr. R.P. Kakati, learned Central Government Standing Counsel and Ms. B. Dutta assisted by Mr. U.S. Thankhiew, learned counsel appearing on behalf of the State of Meghalaya.

4. Mr. Mazumder submits that the Court had no jurisdiction to dismiss the application u/s 18 of the Act. Therefore, the order dated 9-9-94 is liable to be set aside. Mr. Mazumder further submits that a Court to which a matter is referred u/s 18 of the Act can consider the matter as enumerated in Section 18. The Court has no jurisdiction to pass some other orders. Mr. Kakati, learned Central Government Standing Counsel submits that there was no question of referring the matter to the Court inasmuch as no final award was made. According to him the final award can be made only after fulfilling the conditions mentioned in Section 11 of the Act. The Reference Court has dismissed the reference on the ground that in the absence of payment of compensation money either wholly or partly, the respondent had no authority to publish the declaration u/s 6 of the Act. While dismissing the references the Court observed thus: --

"This being the case I find that the declaration so far published issued of notices u/s 9, drawn up of the Award u/s 11 and notices for payment of compensation to the interested parties u/s 12 of the L.A. Act are no longer valid as the amount of compensation money to be awarded to the parties has not been paid either wholly or partly with the Collector.

Accordingly, the reference petitions forwarded before this Court by the O. P. by letter dt. 7-7-1993 u/s 18 of the L.A. Act are hereby dismissed/rejected."

5. u/s 18 of the Act any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested. The application shall state the grounds on which objection to the award is taken. Bare reading of the section clearly indicates that the reference Court has a very limited jurisdiction to look into the objection regarding measurement of the land, the amount of compensation, the persons to whom it is payable or the apportionment of the compensation among the interested persons. The Court to whom the reference is made has no business to look into other matter. In spite of the above legal position the Reference Court passed the impugned order which, in my opinion, is without jurisdiction. Accordingly, I set aside the impugned order and remand the case to the Court of Special Judicial Officer, Shillong--a Court within the meaning of Section 1 & of the Act to decide

the matter strictly in accordance with law. The matter is pending for a long time. It is also submitted that the land was taken by the department as far back in 1965 though on lease, but the matter is still pending. In view of the above the Reference Court is directed to dispose of the entire matter within a period of two months from the date of receipt of this order,

In the facts and circumstances of the case I make no order as to costs.