

(2024) 02 OHC CK 0289

In the Orissa High Court

Case No : Writ Petition (C) No. 42765 Of 2023

Subash Chandra Jena And Another

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 29-02-2024

Acts Referred:

Code of Civil Procedure, 1908 — Section 2(2), 2(9)
Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 70(2), 73

Citation : (2024) 02 OHC CK 0289

Hon'ble Judges : Dr. B.R. Sarangi, J;G. Satapathy, J

Bench : Division Bench

Advocate : S.K. Pradhan, P.K. Muduli

Final Decision : Disposed Of

Judgement

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.K. Pradhan, learned counsel appearing for the petitioners and Mr. P.K. Muduli, learned Additional Government Advocate appearing for the State.
3. The petitioners have filed this writ petition seeking direction to opposite parties 2 and 3 to disburse/pay/deposit the total land acquisition compensation with accrued interest thereon involving the land in question of the petitioners in their favour measuring an area to the extent of Ac.0.491 decimal from out of a total area of Ac.0.720 decimal appertaining to old Khata No.183, Plot No.108 of Mouza-Gunthabandha, Tahasil- Kukudakhandi in the district of Ganjam corresponding to new Khata No. 191/319 as has been assessed against serial no.55 of annexure-9 which comes to Rs.85,46,271/- (Rupees eighty five lakhs forty six thousand two hundred seventy one) after adjusting an amount to the tune of Rs.4,26,169/- (Rupees four lakhs twenty six thousand one hundred sixty nine) which has already been credited to the bank account of petitioner no.1 as at annexure-4. The petitioners have further prayed to return the unutilized land to the petitioners within a stipulated period.

4. Mr. S.K. Pradhan, learned counsel appearing for the petitioners made an innocuous statement before this Court that even though the compensation amount has been determined, but the same has not been released in favour of the petitioners, for which they have approached this Court in the present writ petition.

5. Mr. P.K. Muduli, learned Additional Government Advocate contended that on perusal of the document under Annexure-9, it is seen that the said document is the market price of all kissams of land under LA of mouza-Gunthabandha. Therefore, the statement made by learned counsel for the petitioners with regard to determination of compensation amount in respect of acquisition of land and non-release of the same in favour of the petitioners does not arise. Apart from the same, prayer made by the petitioners for release of Rs.85,46,271/- (Rupees eighty five lakhs forty six thousand two hundred seventy one) after adjusting an amount to the tune of Rs.4,26,169/- (Rupees four lakhs twenty six thousand one hundred sixty nine) which has already been credited to the bank account of petitioner no.1, is without any basis. According to him, Section 73 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as is being referred to by learned counsel for the petitioners, does not apply to the case of the petitioners, rather the case of the petitioners can be covered under Section 70 (2), wherein it has been indicated that every such award shall be deemed to be a decree and the statement of grounds of every such award a judgment within the meaning of clause (2), and clause (9) of respectively, of section 2 of the Code of Civil Procedure, 1908. In that view of the matter, the petitioners have got appropriate forum to ventilate their grievance. Thus this writ petition is not maintainable.

6. Having heard learned counsel for the parties and after going through the record, this Court finds that the reliance placed by learned counsel for the petitioners to the document under Annexure-9 is the document showing market price of all kissams of land under LA of mouza-Guntharbandha. As such, after acquisition of the land unless the award is passed with regard to grant of compensation, the admissible due cannot be extended to the petitioners. The petitioners have not produced any material before this Court to consider their claim for release of Rs.85,46,271/- (Rupees eighty five lakhs forty six thousand two hundred seventy one) after adjusting an amount to the tune of Rs.4,26,169/- (Rupees four lakhs twenty six thousand one hundred sixty nine) which has already been credited to the bank account of the petitioner no.1 and also for return of unutilized land to the petitioners within a stipulated period. Since all such facts are disputed, the same cannot be taken into consideration in the present writ petition.

7. In view of the above, this Court is not inclined to entertain the prayer made in this writ petition. However, liberty is granted to the petitioners to pursue their remedy before the appropriate authority in accordance with law.

8. With that liberty, the writ petition stands disposed of.

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