

(2019) 07 JH CK 0180

In the Jharkhand High Court

Case No : Writ Petition (c) No. 3766 Of 2016

Subhagya Chandra Das

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 10-07-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5, 6, 9, 18
Constitution Of India, 1950 — Article 226

Citation : (2019) 07 JH CK 0180

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Kanti Kumar Ojha, Rakesh Kumar, Ashwini Bhushan

Final Decision : Dismissed

Judgement

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder the petitioner being not satisfied with the quantum of amount of compensation in lieu of the land acquired under the provision of Land Acquisition Act, 1894.

2. It is the case of the petitioner that before the initiation of the land acquisition proceeding Section 4 notification has been issued followed by the process stipulated under Section 5 and 6 of the Land Acquisition Act, 1894 the acquisition proceeding has been concluded by preparing an award, the petitioner has accepted the award and also accepted the amount of compensation as has been fixed to be paid to the petitioner by way of compensation in lieu of the acquisition of the land. After its acceptance the petitioner has filed this writ petition on the ground that the quantum of amount as has been decided in the said award is not at par with the market value of the land.

3. Mr. Kanti Kumar Ojha, learned counsel appearing for the petitioner, has submitted that oral objection has been made as required to be made under the provision of Section 9 of the Act, 1894 but has not been considered, hence this

writ petition.

4. Mr. Ashwini Bhushan, learned A.C. to Sr. S.C.-III appearing for the State of Jharkhand, has submitted that the petitioner has failed to make out the case for issuance of direction and consideration of his grievance for the reason that he has accepted the award and in consequence of the preparation of the award the money has also been accepted and therefore, only provision as provided under the Act, 1894 in case the land losers are not satisfied with the quantum of amount of compensation as has been provided under Section 18 of the Act, 1894 by making reference to that effect which would be referred before the competent court for its adjudication, but the applicability of the said provision would only be when the award would not be accepted but herein the award has been accepted and as such the petitioner cannot be allowed to resort to the provision of Section 18 of the Land Acquisition Act, 1894.

His further submission is that under the provision of Section 9 of the Act, 1894, there is no provision for filing oral objection rather an objection is to be filed in pursuance to the public notice which would be issued by the Collector, an objection means is by way of written statement not oral in view of submission it has been submitted that the petitioner has failed to make out a case for passing positive order in his favour.

5. Having heard the learned counsel for the parties and on appreciation of their rival submissions the factual aspect which is not in dispute in this case that a land acquisition proceeding was initiated in which the petitioner has participated which ultimately culminated by preparation of an award fixing the quantum of amount of compensation the petitioner has accepted the quantum of compensation sometime in the year 2006 and after lapse of ten years the grievance has agitated by way of this instant writ petition.

The contention of the learned counsel for the petitioner is that the quantum of amount of compensation is meager, therefore, the same needs fresh consideration.

This Court in order to appreciate his argument and after going across the provision of Section 18 of the Act, 1894 has found that in case of exigency of not being satisfied with the quantum of amount of compensation the statute provides a provision under Section 18 of the Act, 1894 which reads as under:-

Reference to Court and Procedure Thereon "18. Reference to Court.-(1) Any person interested who has 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.

(2) The application shall state the grounds on which objection the award is taken:

Provided that every such application shall be made,--

(a) If the person making it was present or represented before the Collector at the time when he made this award, within six weeks from the date of the Collector's award;

(b) In other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire."

It is apparent from the aforesaid provision that any person interested who has not accepted the award may, by written application required that the matter be referred by the Collector requires for the determination of the court even for its determination for the amount of compensation. The said provision provides that if any person interested who has not accepted the award, meaning thereby, the said provision would be applicable only in case when award is not accepted. The meaning of acceptance the award would that if the awardees have not accepted the amount of compensation.

But herein, the instant case it is the admitted case of the petitioner that the amount of compensation as has been decided in the award has been received by him, therefore, the remedies available as provided under Section 18 of the Act, 1894 is not available to the petitioner.

Further the submission has been made that he has made an oral objection as required under Section 9 of the Act, 1894, this Court on perusal of the aforesaid provision, has found that which pertains to issuance of notice by the Collector at the time of taking possession of the land and therefore, objection which said to have been filed by the petitioner orally for the purpose of questioning the quantum of amount will not come under the fold of the provision of Section 9 of the Act, 1894 since the petitioner in any way is not in objection about possession of the land.

6. In view of the aforesaid facts as has been narrated hereinabove, this Court is not inclined to pass positive order in favour of the petitioner, hence, this writ petition fails and is accordingly, dismissed.

7. In consequence thereof, I.A. No.3699 of 2017 is also disposed of.