
(2016) 02 JH CK 0029
In the Jharkhand High Court
Case No : W.P. (C) No. 3139 of 2014

Uttam Kumar Hazra

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 22-02-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2016) 3 JBCJ 423 : (2016) 2 JLJR 108

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Dr. Hasnain Waris, Advocate, for the Appellant; Mr. Atanu Banerjee, G.A, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Aparesh Kumar Singh, J.— Heard learned counsel for the parties.

2. Petitioner has approached this Court seeking quashing of order bearing Memo no. 295 dated 9th November 2010 as also Letter no. 586 dated 27th August, 2013 both issued by Special Land Acquisition Officer, Subarnarekha Project Mango, Jamshedpur. By the said orders at Annexures: 8 & 8/1, petitioner's claim for reassessment of Pakka Makan (brick built house) situate on part of portion of Plot no. 736 under Khata no 256 in Village Dulmi, P.S. Tiruldi under the district of Saraikela Kharsawan earlier district of East Singhbhum, Jamshedpur has been rejected on the grounds that petitioner was paid the compensation amount awarded in Award no. 164 on 5th May, 1989 itself totalling Rs. 52,077.82. There is no provision under the Land Acquisition Act for making payment of amounts after the awarded amount. If the petitioner awardee was aggrieved by the amount awarded, he did not avail of provisions of Section 18 of Land Acquisition Act within the time stipulated. The entire claim for reassessment of the awarded amount is therefore suffering from gross delay which cannot be overcome and the claim of the petitioner has been rejected on the aforesaid grounds. Petitioner while assailing the impugned orders has also made a prayer for directing the

respondents to make a Reference under Section 18 of Land Acquisition Act to the competent court for determination of the amount of compensation and enhancement.

3. Learned counsel for the petitioner has relied upon a notice at Annexure-3 where under persons aggrieved of acquisition undertaken under Subarnarekha Project were asked to raise objections in the special camp organised by the Administrator, Subarnarekha Project. Annexure-3 is of 5th December, 1988. Petitioner claims to have made an application on 20th December, 1988 (Annexure-4) and thereafter did not receive any enhancement amount or any such reassessment of the awarded amount was carried out. Lately, his claim has been rejected on the aforesaid ground by the impugned orders.

4. Counsel for the Respondent-State has referred to the averment made in the counter affidavit and reiterated the grounds taken in the impugned order. He submits that way back in 1988 itself petitioner has received the compensation amount of house on 5th May, 1989. He did not prefer any application under Section 18 of Land Acquisition Act for enhancement of compensation amount or in the nature of objection to the awarded amount to be determined by the competent court of law. Therefore, the claim of the petitioner has been duly rejected after consideration by the impugned orders.

5. I have considered the submission of the parties and the relevant materials facts pleaded. It is evident from the face of record that the Land Acquisition proceedings initiated in 1986-87 for acquisition of certain lands in relation to Subarnarekha Project including that of the petitioner reached the stage of award as per notice under Section 12(2), Annexure-1 in 1988. Petitioner has not been able to show any valid reference made under Section 18 before the competent court of law even after receiving notice under Section 12 within time. Such claim has been persisted after a long delay which has been rightly rejected on the grounds of being barred by gross delay by the impugned orders. Prescription of time as contained in the provisions of Land Acquisition Act, 1894 Section 18 require a person, who is present before the Collector at the time of making of the award to make such application within six weeks from the date of award. Section 18(2)(b) provides that an aggrieved person can raise an objection 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. Provisions of the Act laying down the prescription of time do not contemplate of any relaxation in the time period or condonation of such delay.

6. Therefore, the writ petition preferred in the year 2014 seeking such reassessment and that too in a writ proceeding before this Court is not entertain able. The remedy is now barred under the provisions of Land Acquisition Act itself. Therefore, the writ petition is dismissed.