

Charki Devi Vs. Union of India (Uoi)

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Court : Jharkhand

Decided On : Jan-07-2009

Reported in : 2009(57)BLJR932

Judge : M.Y. Eqbal and; Jaya Roy, JJ.

Acts : Coal Bearing Areas (Acquisition and Development) Act, 1957 - Sections 14(2); ;Code of Civil Procedure (CPC) - Order 41 - Rule 11

Appeal No. : L.P.A. No. 744 of 2005 arising out of M.A. No. 505 of 1991(R), L.P.A. No. 747 of 2005 arising out of

Appellant : Charki Devi

Respondent : Union of India (Uoi)

Advocate for Def. : A.K. Das, Adv.

Advocate for Pet/Ap. : V. Shivnath, Adv.

Disposition : Appeal allowed

Judgement :

M.Y. Eqbal, J.

I.A. Nos. 3109 to 3206 of 2005

We have heard the learned Counsels appearing for the parties on these interlocutory applications filed by the appellants for condonation of delay in filing the Letters Patent Appeals.

After considering the facts of the case and the delay occurred in preferring the appeals, we are satisfied that sufficient cause has been shown for not filing the appeals within time. Hence, all these interlocutory applications are allowed and the delay in filing the appeals are condoned.

L.P.A. Nos. 744 of 2005 with analogous cases

1. Heard Mr. V. Shivnath, learned Counsel appearing for the appellants and, Mr. A.K. Das, learned Counsel appearing for the respondents and with their consent, these appeals have been heard together and are being disposed of by this common judgment.

2. These appeals are directed against the common judgment and award dated 21.12.2001, whereby the learned Single Judge dismissed the appeals holding that there is no reason to interfere with the judgment and order passed by the Additional Judicial Commissioner-cum-Tribunal, Ranchi under the Coal Bearing Areas (Acquisition and Development) Act, 1957.

3. Mr. V. Shivnath, learned Counsel appearing for the appellants, submitted that under the Coal Bearing Areas (Acquisition and Development) Act, 1957 (in short 'the said Act'), various properties including lands, houses and wells, were acquired. All the three types of cases of acquisition of the properties were referred to the Tribunal constituted under Section 14(2) of the said Act for determination as to sufficiency of the amount of compensation offered by the Central Government. In all the reference cases, three judgments were delivered by the Tribunal. The first judgment was with reference to the cases related to land only. The second reference cases related to house only and the third reference cases related to well only. The claimants-appellants preferred appeals against the aforementioned three judgments passed in those reference cases. Some of the claimants-appellants aggrieved by the order passed by the Tribunal related to land only, whereas some of the claimants-appellants preferred appeals against the award related to house

only. These appeals have been heard together by the learned Single Judge and impugned judgments and orders were passed which is the subject matter of these Letters Patent Appeals.

4. Mr. V. Shivnath, learned Counsel appearing for the appellants, after narrating the facts, submitted that the learned Single Judge dismissed the appeals related to land also along with other appeals without discussing the cases of the appellants and without assigning any reason as to why these appeals related to land are also to be dismissed.

5. Mr. A.K. Das, learned Counsels appearing for the respondents, has not disputed the fact that by the impugned judgment, the learned Single Judge also disposed of those appeals which related to acquisition of land. However, learned Counsel submitted that the learned Single Judge dismissed those appeals also since there was no reason to interfere with the orders passed by the Tribunal.

6. We have perused the impugned judgment passed by the learned Single Judge whereby all the appeals have been dismissed. Prima facie, there is no discussion about those appeals which arose out of the acquisition of land. For better appreciation, the impugned judgment passed by the learned Single Judge is quoted herein below:

On reference, the matter came before the Tribunal and by impugned judgment dated 13.12.1988, all the Reference Case Nos. 196 to 454 of 1984 were dismissed. Hence, the awardees have preferred the present appeals against the impugned common judgment. All the appeals have been heard together and are disposed of with consent of parties at the stage of hearing under Order 41 Rule 11 of the Code of Civil Procedure by a common order. The awardees claimed compensation @ Rs. 100.00 per sq. ft. for brick built house with Kotha and @ Rs. 75.00 per sq. ft. without Kotha, for mud built houses with tiled roof and Kotha @ Rs. 70.00 per sq. ft. and without Kotha @ Rs. 50.00 and for pucca house with cemented roof @ Rs. 50.00 per sq. ft. The claimants examined three witnesses, namely, Fagu Besra, Jagdish Mahto and Laldeo Mahto, whereas the other side examined one C.C.L. Engineer, Ramashraya Prasad Singh, who proved the Measurement Books etc. [A, A/1 & B].

The Tribunal found, on the basis of evidence adduced, that the persons whose houses were acquired were still living in their respective houses, though acquisition was made as far back as in the year 1964. It was held that the price fixed up by the Central Government for the houses in question was adequate and there was no reason to enhance the price of the same as contended on behalf of the claimants, who had virtually adduced no evidence either oral or documentary in support of their case and claim.

Ext. A is entry Nos. 1 to 141 of the measurement book, which contained area of each of the houses acquired by the Central Government in village Pundi and entry Nos. 1 to 26 in the measurement book of the houses in village Bongihara, was marked as Ext.A/1. Nothing was taken in the cross-examination of the O.W.1 to dislodge the determination of the compensation amount by the competent authority under the Act.

In my view, in absence of any evidence brought on record by the owners of those houses, the Tribunal rightly dismissed the reference cases and accepted the rate of compensation amount fixed by the authority under the Act.

I find no reason to interfere with the impugned judgment and the different awards in these appeals. All the appeals are dismissed.

7. From perusal of the memo of appeals filed by the appellants against the orders of the Tribunal, it is evidently clear that the appellants seriously challenged the amount of compensation awarded in respect of the acquisition of land. The learned Single Judge dismissed those appeals also without even discussing the grounds taken by the appellants and without assigning any reasons for the dismissal of the appeals. We have no doubt in our mind that there appears to be some error or omission committed by the learned Single Judge in dismissing the appeals and unless such errors, omissions and defects are not rectified, it would result in serious miscarriage or failure of justice. The impugned judgment, therefore, cannot be sustained in law.

8. For the reasons aforesaid, all these appeals are allowed and the judgment and order passed by the learned Single Judge is set aside and all these appeals are

remitted back to the appropriate Bench for re-hearing and for passing a fresh judgment.

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