

Smt. Meena Devi and ors. Vs. State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Mar-27-2008

Reported in : [2008(2)JCR552(Jhr)]

Judge : R.K. Merathia, J.

Appellant : Smt. Meena Devi and ors.

Respondent : State of Jharkhand and ors.

Disposition : Petition dismissed

Judgement :

ORDER

R.K. Merathia, J.

1. Heard the parties finally.

2. Though, petitioners claimed compensation and employment against acquisition of land but Mr. Shivnath, learned senior counsel appearing for the petitioners, submitted that petitioners are only claiming compensation as per Section 48(2) of the Land Acquisition Act for use of their land by Bharat Cooking Coal Limited (BCCL).

3. Mr. Mahjul Prasad, appearing for the State, and Mr. A.K. Mehta, appearing for the BCCL submitted that though acquisition proceeding was started but

possession of the lands of the petitioners was not taken and they were not used. The acquisition proceeding was dropped on the request of BCCL. They further submitted that petitioner's claim is not only frivolous but stale also having been raised after about 10 years.

4. Thus, the question is whether possession of the petitioner's lands were taken and they were used or not. In paragraph 8, the petitioners have made a vague and general statement with regard to possession, which reads as follows:

8. That, it is humbly stated and submitted that in the said agreement, the respondents had agreed to acquire the lands and to pay compensation to the awardees declared by the Land Acquisition Collector, Dhanbad. At the same time, the respondents took possession of the lands on or about...of Khata mentioned above and agreed to send the requisition to the appropriate Department/Government for acquisition under the emergent provisions of law.

Para 6 (ix) of the counter-affidavit filed on behalf of the State-respondents reads as follows:

That it is also stated that no notice for notification was issued, no Dakhal-Dihani was taken and no further action was taken in the matter of acquisition.

In paragraph 13 of the counter-affidavit filed on behalf of BCCL, paragraphs 8, 9, 10 and 11 of the writ petition are replied by saying that steps were taken for acquisition of lands of the petitioners but subsequently as the lands were not required for mining purposes, request was made for dropping the proceeding and ultimately the proceedings were dropped.

5. Thereafter, it is stated that 'any statement made in paragraph 8 beyond the records are specifically denied and disputed'.

In the rejoinder, again petitioners made vague and general statement that after execution of the agreement the respondents took possession of their lands and started using the same for the purpose of mining operation and other allied purposes.

Petitioners could not show as to when possession was taken and by whom. No document of handing over/taking over possession in the land acquisition proceeding has been produced by the petitioners. Thus, it is clear that possession of petitioner's land was not taken, and they were not used by BCCL.

6. Moreover, it appears that the acquisition proceeding was started on the request of BCCL in 1995 but in the year 1998, it was dropped on its request that the same is not required for mining purpose. Petitioner was aware of this position in 1998, which is clear from the order-sheet of the land acquisition case and also the legal notice dated 11.7.1998 sent on behalf of the petitioners, but this writ petition was filed after about 10 years on 29.6.2007. The provisions of Section 48 of the Land Acquisition Act are not applicable in the facts and circumstances of this case, noticed above.

7. Thus, it is clear that the claim of the petitioners is not only frivolous but stale also. Accordingly, this writ petition is dismissed. However, no costs.

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