

Hari Narayan Mishra Vs. Central Coal Fields Ltd. and ors.

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SooperKanoon Citation : sooperkanoon.com/519262

Court : Jharkhand

Decided On : Jun-09-2008

Reported in : [2008(3)JCR304(Jhr)]

Judge : Amareshwar Sahay, J.

Appellant : Hari Narayan Mishra

Respondent : Central Coal Fields Ltd. and ors.

Judgement :

ORDER

Amareshwar Sahay, J.

1. Heard the parties.
2. In view of the nature of dispute and claim made in this writ application, it is being disposed of at this stage itself with the consent of the parties.
3. The petitioner has moved this Court earlier in W.P. (C) No. 1905 of 2005 seeking direction upon the respondents for payment of compensation for the lands acquired under the provisions of Coal Bearing Areas (Acquisition and Development) Act, 1957 on the ground that the land belonging to the petitioner was acquired by the respondents C.C.L. and they were using the same but the compensation was not paid to him.

4. This Court by order dated 28.4.2005 disposed of the said Writ Petition by, giving liberty to the petitioner to file a representation before the respondent No. 4 the General Manager, Central Coalfields Limited, Dhori Area, Bokaro along with all the documents of title and possession and other certificates and the General Manager was directed to consider the representation of the petitioner and pass an appropriate order within three months from the date of filing of such representation by the petitioner.

5. The grievance of the petitioner is that pursuant to the order passed by this Court, though he filed a representation before the General Manager stating in detail about his claim along with supporting documents but the General Manager by the impugned order dated 18.8.2005 contained in Annexure 14 to the Writ Application has illegally rejected to claim for compensation of the petitioner by wrongly going into the question of his title and possession on plot No. 23.

6. From perusal of the impugned order, it appears that the General Manager asked the petitioner to submit certain documents such as translated copy of the sale-deed by which the petitioner had acquired the lands in question as well as some other documents but the petitioner did not submit those documents. From the impugned order it also appears that the General Manager has found that according to entries in the Survey Khatiyani Plot No. 23 has been recorded as River and, therefore, the petitioner cannot claim compensation for the same. It has also been held in the impugned order that the petitioner failed to establish his title and possession over the Plot No. 23 for which he was claiming compensation.

7. On a careful scrutiny of the impugned order. I find that it is not clear from the impugned order as to what was the basis of the findings that Plot No. 23 was, in fact, a river. It is not clear as to whether the General Manager himself perused any Survey Khatiyani? It also appears that he has not been able to consider the documents of title and possession of the petitioner since the petitioner failed to produce the same therefore, in my view, the findings arrived at by the General Manager are not based on any documents/evidence. The impugned order has not been passed by the General Manager as per the order/directions passed by this Court in the earlier Writ Petition.

8. In view of the above discussions and findings, in my view, the impugned order dated 18.8.2005. contained in Annexure 14, passed by the General Manager, cannot be sustained and, therefore, the same is hereby set aside and the matter is being remitted back to the General Manager, Central Coalfields Limited. Dhori Area, Bokaro (respondent No. 4) for a fresh considerations and for passing a fresh order in accordance with law. The petitioner is hereby directed to submit all the documents relating to his title and possession, which have been annexed with this writ petition including the typed/translated copy of the registered Sale Deed to the General Manger, within three weeks. Thereafter, the General Manager shall consider those documents in its right perspective and shall pass an appropriate order in accordance with law keeping in mind the order passed by this Court in, the earlier Writ Petition, contained in Annexure-8 to the Writ Petition, within a period of four weeks from the date of submission of the documents. It is also made clear that if the presence, of the petitioner is required by the General Manager for any clarification or for any explanation, the petitioner shall make himself available before the General Manager as and when required.

9. With these observations and directions, this writ application is disposed of.