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Court : Jharkhand

Decided On : Aug-14-2003

Reported in : [2003(4)JCR679(Jhr)]

Judge : Tapen Sen, J.

Acts : Coal Bearing Areas (Acquisition and Development) Act, 1957 - Sections 13;
[Constitution of India](#) - Article 226

Appeal No. : WP (C) No. 3142 of 2003

Appellant : Banshidhar Mishra and ors.

Respondent : Central Coal Fields Ltd. and ors.

Advocate for Def. : Sheela Prasad, Adv.

Advocate for Pet/Ap. : P.K. Prasad, Adv.

Judgement :
ORDER

Tapen Sen, J.

1. Heard Mr. P.K. Prasad, learned counsel for the petitioners and Mrs. Sheela Prasad learned counsel for the respondents.

2. The petitioners are aggrieved by Order dated 17.1.2002 (Annexure-6) by which the petitioners have been informed that their claim for compensation for acquisition of 24,27 Acres of land cannot be allowed, because it was found that the Central Coalfields Limited would not require the lands in future.

3. The admitted case of the parties is that by a Notification dated 31.3.1983 issued under the provisions of the Coal Bearing Areas (Acquisition and Development) Act, 1957. The aforementioned lands of the petitioners mentioned in the impugned communication dated 17.1.2002 (Annexure-6) was acquired by the Government. According to the petitioner, these lands were their Raiyati lands and since the acquisition was made under the provisions of Coal Bearing Areas (Acquisition of Development) Act, 1957 as is apparent from the Notification itself contained in Annexure-1, they automatically became entitled to compensation which was to be paid to them strictly in terms of Section 13 of the aforementioned Act. The learned counsel for the Petitioner has further submitted that the Notification having been issued strictly in terms of the aforementioned Act and the relevant provisions there under, the respondents were bound to pay compensation to them. However, notwithstanding the fact that the respondents did initiate steps for payment of compensation, yet no compensation was paid rendering their right to receive compensation futile. Representations after representations were filed and instead of doing the needful by compensating the petitioners for the acquisition, the respondents ultimately have come out with the impugned communication dated 17.1.2002 whereby and where-under it has been communicated to the petitioners that since the Central Coalfields Limited would not require the lands in future, therefore compensation cannot be paid to them at this stage.

4. According to Mrs. Sheela Prasad, the respondents do not deny the payment of compensation. She refers to paragraph 11 of the Counter Affidavit and states that the petitioner will be paid interest as per law for delayed payment provided the lands are not denotified. At paragraph 14 of the Counter Affidavit it has further been stated that inspite of the Notification, the respondents are not debarred from taking necessary action for denotification of the land because the petitioners are still carrying out cultivation work thereon and they are not economically weak. She placed reliance upon an unreported judgment of this Court passed in 'WP (C) No.

4149 of 2002' delivered on 31.7.2003. In that case, the lands we're acquired in the year 1985 under the provisions of the same Act and similar to the facts of this case, the respondents later on came out with a stand that the lands were not found feasible and it was accordingly decided that the lands will have to be denotified and returned to the Raiyats.

5. The aforementioned writ application was disposed off on the aforementioned date i.e., 31.7.2003 with an observation that the only option that remains with the respondents is either to pay compensation to the petitioner or to take appropriate steps which is permissible in law so that the petitioner of that case is not deprived of his legitimate claims either for the lands or for compensation.

6. Considering the facts of this case and also taking note of the submissions of Mr. P.K. Prasad, it is evident that there is no provision under the Coal Bearing Area (Acquisition and Development) Act, 1957 for denotification of the land which has been acquired and therefore, to that extent the submission and/or statement and/or argument of the respondents that they will take necessary action for denotification appears not to be in accordance with law because the word 'Law' in the facts and circumstances of this case obviously means the law under which the land was acquired and the law under which they were to be paid compensation and therefore whatever action that the respondents are to take must be in accordance with the provisions of the aforementioned Act, i.e., Coal Bearing Areas (Acquisition and Development) Act, 1957.

7. In that view of the matter and following the principle of consistency of judgments, this Court is in respectful agreement with the judgment of one of us delivered on 31.7.2003 in 'WP (C) No. 4149 of 2002' a certified copy of which was produced by Mrs. Sheela Prasad in Court for perusal. Accordingly, this writ petition is also disposed off with the same observations made by His Lordship in that case and it is observed that the only option that remains with the respondents is either to pay compensation to the petitioner or to take any other appropriate steps which is permissible in law so that the petitioner cannot be deprived from his legitimate claim over the land or compensation.

8. Finally and again following the same judgment, this writ petition is disposed off with a further direction upon the respondents to either release compensation in favour of the petitioners for the acquisition of the lands or to take other appropriate decision which is permissible in law as expeditiously as possible and preferably within a period of two months from the date of receipt of a copy of this Order.

9. With the aforesaid observations and directions, this writ petition stands disposed off. There shall however be no order as to costs.

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