

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9576 of 2006

Lingaraj Behera

....

Petitioner

Mr. Manoj Ku. Mishra, Senior Advocate

-versus-

Collector, Ganjam and others

....

Opposite Parties

Mr. S.N. Das, A.S.C. for the State

Mr. Ramakant Mohanty, Senior Advocate for O.P. No.2

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K. PATTANAIAK

ORDER

15.02.2022

Order No.

15.

Misc. Case No.14983 of 2006

1. None appears for the Applicants/Intervenors.
2. The Misc. Case is dismissed for non-prosecution.

W.P.(C) No.9576 of 2006

1. The prayer in the present petition by the Petitioner-Lingaraj Behera is for a direction to the Indian Rare Earths Limited (Opposite Party No.2) to pay him compensation for acquisition of his land, and to provide rehabilitation facilities to his family members.

2. The background facts are that in a track of land between the mouth of Rushikulya River and Gopalpur-on-sea, Opposite Party No.2 is undertaking mining activity on the coast through their Orissa Unit called as Orissa Sands Complex (OSCOM) in Matikhala village in Ganjam District.

3. It was decided to expand the mining activity to the northern edge of the strip. They laid a road without waiting for completing the process of acquisition under the Land Acquisition Act, 1894 (LA Act). This covered a small patch of 5 acres of land belonging to the three individuals. Of these, Ac.2.075dec belonged to the present Petitioner. OSCOM decided to go for private purchase instead of invoking the LA Act. While the other two individuals accepted the sale consideration determined, the present Petitioner is stated to have insisted on being given the benefit of the Rehabilitation Assistance Scheme (RAS) applicable to the persons displaced on account of the acquisition proceedings under the LA Act.

4. Meanwhile, there were other contesting claimants for the sale considerations i.e. Smt. Jyotsna Patro, Smt. Bijayalaxmi Patro and Sri Santosh Kumar Patro (hereafter collectively referred to as 'the Patros'). While the instant petition was pending, Civil Suit No.92 of 2006 was instituted in the Court of Civil Judge (Senior Division), Chhatrapur, Ganjam District by the Patros against the State as well as the present Petitioner and his family members for specific relief arising from an agreement to sell.

5. Ultimately, the said suit stood dismissed for default on 5th January, 2010. A restoration application filed by the said Plaintiffs also stood dismissed on 16th July, 2010. Those orders appear to have attained finality.

6. As already noted, the Patros do not appear to be any longer interested in this litigation and they have failed to appear even in their own intervention application.

7. In view of the above development, Mr. Manoj Kumar Mishra, learned Senior Advocate appearing for the Petitioner urges that with there being no impediment to disburse the sale consideration, a direction in that regard should be issued to Opposite Party No.2 to do so. He fairly states that the Petitioner is not insisting on being extended the benefits under the RAS.

8. Mr. Ramakant Mohanty, learned Senior Advocate appearing for Opposite Party No.2 points out that since the land has been acquired through private purchase, the Petitioner would be entitled only for the sale considerations determined and not to any other benefits available to a displaced person under the LA Act. He states that if the Petitioner approaches Opposite Party No.2, the amount will be disbursed to him in a particular time as may be directed by this Court.

9. In view of the above submissions, a direction is issued to Opposite Party No.2 to disburse the sale considerations together with the simple interest @ 6% per annum from the date of determination of the amount of sale considerations till the date of its disbursal to the Petitioner not later than 4th April, 2022 subject to the Petitioner producing before Opposite Party No.2 all relevant records in his possession in support of his claim and also furnishing an indemnity to Opposite Party No.2 with regard to

any claims in regard to the said sale consideration amount from any person in future.

10. No further directions are called for in the present petition. The writ petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin

