

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.21226 of 2013

Deepak Ranjan Pradhan

Petitioner

Mr. A.K. Hota, Advocate

Vs.

Union Govt. of India & Ors.

Opposite Parties

*Mr. D. Gochayat, CGC
(O.Ps.1-3)*

*Mr. P.K. Muduli, AGA
(O.Ps.4-7)*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

06.12.2022

**W.P.(C) Nos. 21226, 21227, 21228, 21244, 24113, 24115,
24116, 24117, 24118, and 24119 of 2013**

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Hota, learned counsel appearing for the petitioners; Mr. P.K. Muduli, learned Additional Government Advocate appearing for the State-opposite parties and Mr. D. Gochhayat, learned Central Government Counsel appearing for opposite parties no.1 to 3.

3. The petitioners have filed this writ petition seeking direction to the opposite parties to issue Displacement Certificate in view of compulsory acquisition and displacement, and further to issue direction to the opposite parties to implement the Rehabilitation and Resettlement package as per Annexure-2 before real and physical displacement from the land and building of the petitioners

family by extending the stipulated date for eviction mentioned in the impugned notice at Annexure-5.

4. The petitioners are in occupation of the land in question, which have been acquired for the purpose of drawing the Railway line for Talcher-Bimalagarh new B.G. Rail Link Project, Angul and, as such, for the said development project, which is undertaken by the State Government along with the Central Government, as per the provisions, the State Government has to provide land, which can be utilized for the purpose of drawing Railway Line for greater public interest. Therefore, the authority issued notification for acquisition of lands, pursuant to which the petitioners are to be evicted and, as such, they are entitled to get rehabilitation and resettlement as per the law itself. But the petitioners are still in possession of the land in question. Therefore, they have approached this Court by filing this writ petition for rehabilitation and resettlement.

5. Mr. P.K. Muduli, learned Additional Government Advocate appearing for the State-opposite parties contended that because of acquisition of lands by the State Government for the purpose of drawing Railway line for Talcher-Bimalagarh new B.G. Rail Link Project, Angul, the petitioners have been paid compensation amount for the land and also for the structure standing thereon. After receipt of the same, they are forcibly in occupation of the land on the plea that they should have been given displacement certificate so that they can get the benefit. Some of the persons, who are not satisfied with the compensation amount as determined, have moved

appropriate forum claiming higher compensation as per Section 18 of the Land Acquisition Act, which is sub-judice before the authority. That itself cannot be a ground not to vacate the land, which they are in occupation after receipt of the compensation amount. Therefore, the petitioners have filed this writ petition and this Court, vide order dated 23.09.2013 in Misc. Case No.19482 of 2013 passed interim order directing that status quo as on today in respect of the possession of the petitioners over the land in question shall be maintained by the parties till 07.10.2013. In compliance of the same, the petitioners have not been evicted from the land. Thereafter, an application was filed for modification of the said interim order and this Court, vide order dated 05.03.2014 modified the interim order dated 23.09.2013 to the effect that possession may be taken, but simultaneously displacement certificate be issued to the petitioners. In compliance thereof, the petitioners have been provided with displacement certificate, but in spite of that, they are not vacating the land and therefore, there is delay in execution of work and great loss has been caused to the State Exchequer.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioners are entitled to get the benefit of Rehabilitation and Resettlement for the lands, which have been acquired for the purpose of drawing Railway line, i.e. for the benefit of general public as well as interest of the State and Central Government. For acquisition of their lands, compensation have been paid for the lands and the buildings standing thereon, but the

petitioners are forcibly staying over the lands without vacating the same. That itself cannot sustain in the eye of law in view of fact that now they have already been provided with displacement certificate which they can utilize for the purpose of getting benefit. In spite of that some other persons, who are in possession of the land, have also moved appropriate forum as per Section 18 of the Land Acquisition Act for higher compensation, which is pending for consideration. Therefore, for the greater interest of the State, the lands which have been acquired cannot be allowed to be possessed by the petitioners.

7. In reply filed on behalf of opposite parties no.5 & 6 to the rejoinder affidavit at paragraphs-4 & 5, it has been stated as follows:

*"4 That in reply to the averments made in Paragraph-4.2 of the Rejoinder, it is humbly submitted that the O.P- 05 & 06 have duly submitted the fact of the notification for the year 2007 in the same effect by filling affidavit as para-11 **"the first notification issued u/s-4(1) of the L.A Act lost its force as the declaration u/s-6 of the L.A Act could not be made within the stipulated period of one year. Therefore, for the second time, the Notification u/s-4(1) of the L.A Act was issued on dt. 06.05.2010 and therefore the declaration u/s-6(1) of the LA Act was issued on dt.16.06.2011"**. It is humbly submitted that the O.P-05 & 06 have also submitted the fact at para-12 in shape of affidavit. It comply the para-4.2 of the rejoinder regarding adopt of the emergency procedure.*

The point raised by the petitioner in rejoinder is arbitrarily, monopoly & baseless as petitioner raised at para-10 of the original writ petition and the reply to the said averment made in paragraph-20 by O.P-05 & 06 in shape of affidavit at para-20. However, O.P-05 & 06 apprised to the Hon'ble Court that Talcher-Bimalagarh Rail Link Project is a National Project for public purpose. The petitioner and his 02 brothers are residing in one shelter with asbestos fitted roof cunningly with 03 bi-plots and received payment of the structures separately only to get financial opportunity by gaining benefit from R&R Policy of State Govt. and the petitioner and his brothers have also filed

separate WP(C) Cases before the Hon'ble High Court i.e WP(C) No-21238 of 2013 filed by Pratap Ranjan Pradhan & WP(C) No-21244 of 2013 filed by Biswa Ranjan Pradhan (Photo copy of the structure both the brothers in WP(C) cases is enclosed for kind observation of Hon'ble High Court). In spite of the observations, the O.P-05 & 06 of the writ petition honourably obeyed the interim order of Hon'ble High Court and issued displacement certificate to the petitioner with a intention to get peacefully possession of the land for achievement of the Govt. project for public purpose but it failed. The petitioner did not honour the interim order dt-05.03.2014 of Hon'ble High Court which caused delay in progress of construction work. Although, the petitioner have received the compensation and handover possession in written. The petitioner has also filed petition u/s-18 of the LA Act. to get benefit which has also been referred to the learned Civil Judge Senior Division, Talcher numbered as L.A Mist: Case-83/2019 for decision. It is now under subjudice. If the decision of Learned Court regarding benefit of the petitioner comes in his favour then as per provision of the Act, 9% interest for one year and 15% interest in the subsequent year will be paid in the decretal dues. So that the present rejoinder is not maintainable either in fact or in law and liable to be dismissed in limine.

5. *That in reply to the averments made in Paragraph-4.3 of the Rejoinder, it is submitted that Talcher- Bimalagarh Rail Link Project is a linear project covering 154 Kilometers connecting 03 Districts. Angul District 82.650Kms, Deogarh District 32.100Kms & Sundargarh District 39.250Kins. The Railway line commissioning 0 Km to 20Kms of Angul District have been completed. The process of land acquisition from Km 20 to 60.500 Kms of Angul District have been completed and accordingly the construction work is in full swing. But the land of the petitioner comes to 23.250Km to 23.600Kms in village Keshabpur is the bottleneck of the project. However, the O.P no-05 & 06 is giving honour to the interim order of this Hon'ble Court dt.05.03.2014. But the petitioner did not cooperate to vacate the land and denied the interim order of this Hon'ble Court caused delay to achieving the public work though the project coming under Prime Minister PRAGATI Yojana and it is reviewed time to time by Railway Board”.*

In view of the above, this Court is of the considered view that merely because interim order was passed, there is no justification on the part of the petitioners to retain the lands and the buildings standing thereon, even after modification of the said interim order. If they claim higher compensation they

may move before the appropriate forum. Therefore, there is no justification to keep the matter pending. Accordingly, this Court directs the petitioners to vacate the land within a period of fifteen days from the date of communication/production of this order. If they do not vacate the land, it shall be open to the authorities to evict the petitioners from the land. It is made clear that where displacement certificate has not been provided, it is open to the State Government to provide the same to the person concerned so that follow up action for eviction shall be taken.

8. With the above observation and direction, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(B. P. SATAPATHY)
JUDGE