

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P(C). No.13820 of 2022

Subal Behera

....

Petitioner

Mr. Gopinath Mishra, Advocate

-versus-

***Land Acquisition Officer-cum-
Competent Authority, Matiapada
Railway Over Bridge & Others***

....

Opposite Parties

Mr. H.M. Dhal, Addl. Govt. Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA
JUSTICE M.S. RAMAN**

ORDER

17.06.2022

Order No.

- 02.**
- 1.** This matter is taken up by virtual/physical mode.
 - 2.** Mr. Mishra, learned counsel for the Petitioner prays for correction of the description of Opposite Party No.1 in Court today.
 - 3.** Prayer is allowed. Learned counsel for the Petitioner is permitted to correct the description of Opposite Party No.1 in Court today.
 - 4.** The Petitioner in this writ application prays for a direction to refer the dispute to the competent court/authority.
 - 5.** Mr. Mishra, learned counsel for the Petitioner submits that the land in Plot No. 7/3046 under Khata No. 264/1210 to an extent of area Ac.0.014 decimals in Mouza- Sidhamahavirpatana in the

district of Puri has been acquired for construction of Matiapada Railway Over Bridge. Accordingly, notices were issued for compensation. The Petitioner has filed an objection to the said notices praying to stop payment of compensation in favour of the Opposite Party Nos. 2 and 3 in view of pendency of Civil Suit No. 33 of 2017 before the learned Civil Judge (Senior Division), Puri.

6. Taking into consideration the submission made by the learned counsel for the Petitioner, this Court vide order dated 13.06.2022 directed Mr. Dhal, learned Addl. Govt. Advocate to take instruction as to under which Act the award for land acquisition has been passed and also to take instruction as to whether disbursement of award has been made pursuant to the notice under Annexure-1.

7. Mr. Dhal, learned Addl. Govt. Advocate on instruction submits that the land has been acquired under the provision of the National Highways Act, 1956 (for short 'the Act'). Referring to sub-section (3) of Section 3-H of the said Act, he submits that when several persons claim to be interested in the amount deposited under sub-section (1). The competent authority shall determine the persons who in its opinion are entitled to receive and the amount payable to each of them. Further sub-section (4) of Section 3-H Act makes a clear that if any dispute arises with regard to apportionment of the amount, the competent authority shall refer the matter to the Principal Civil Court of original jurisdiction within whose local limits the land is situated subject to the Petitioner making an application to that effect.

Mr. Dhal, learned Addl. Govt. Advocate further submits that the compensation amount has already been deposited with the competent authority. Since objection of the petition under Annexure-3 is still pending with him, no disbursement of the award amount has been made. In fact no disbursement of the award amount can be made, if a reference is made to the Principal Civil Court of the district in terms of the Section 3-H (4) of the Act.

8. Mr. Mishra, learned counsel for the Petitioner submits that his objection (Annexure-3) to the notice under Annexure-1 may be treated as petition to refer the matter to the Principal Civil Court under section 3-H (4) of the Act.

9. Mr. Dhal, learned Addl. Govt. Advocate submits that the prayer made in the said objection is misconceived and the objection cannot be treated to be a petition for reference under Section 3-H (4) of the Act.

10. Taking into consideration the rival contention of the parties, this Court is of the considered opinion that in order to make a reference under Section 3-H (4) of the Act, the Petitioner has to make an application in that regard before the competent authority.

11. In view of the above, the writ application is disposed of directing that in the event the Petitioner makes an application before the competent authority-Opposite Party No. 1 to refer the matter to the Principal Civil Court, Puri in terms of Section 3-H (4) of the Act within a period of two weeks hence, the competent

authority shall do well to refer the matter to the Principal Civil Court, Puri within a period of three weeks therefrom.

Issue urgent certified copy as per rules.

(K.R. Mohapatra)
Vacation Judge

(M.S. Raman)
Vacation Judge

Aks

