

IN THE HIGH COURT OF ORISSA AT CUTTACK

ARBA No.19 of 2021
(Through Hybrid mode)

Girija Prasanna Panda

....

Appellant

Mr. B.N.Mohanty, Advocate

-versus-

Union of India

....

Respondent

Mr. G.Mohanty, Advocate (CGC)

CORAM: JUSTICE ARINDAM SINHA

ORDER
04.04.2022

Order No.

04.

1. Mr. Mohanty, learned advocate appears on behalf of appellant and submits, impugned is judgment dated 30th November, 2021 passed by the Court below rejecting his client's petition for setting aside award dated 15th February, 2014 made by Collector, Jajpur regarding the reference on compensation for acquisition of his client's land and building. He demonstrates that there was direction for interim measure made by order dated 24th October, 2013, on application by his client. The Tribunal asked concerned Executive Engineer and Special Land Acquisition Officer (NH-215) for joint enquiry and report to be submitted on the properties, in presence of appellant. By letter dated 2nd January, 2014 the Executive Engineer said as follows :-

“In inviting kind reference to the subject cited above, it is to state that there is no change in

the present valuation from previous valuation as there is no change in the measurements recorded earlier.

This is for favour of kind information and necessary action.”

2. He submits, for the Tribunal to thereafter say that his client did not adduce any evidence is a finding, that is perverse. There was clear direction of interim measure under section 17, Arbitration and Conciliation Act, 1996. In violating the interim measure, mandate of the Act stood violated, resulting in purported award. The arbitrator after having directed the interim measure but thereupon accepting non-compliance is patent illegality on the face of the award.

3. Mr. Mohanty, learned advocate, Central Government Counsel appears on behalf of respondent and submits, the Court below by impugned judgment, upon careful consideration found that there was no patent illegality in the award. He reiterates, it was found both by the Tribunal and the Court below that appellant had not produced any evidence in support of his claim for higher compensation. No ground for interference could be made out. As such there should not be interference in appeal.

4. Appellant had taken steps to obtain interim measure directed by said order dated 24th October, 2013. It appears, respondent was not aggrieved by the interim measure, since respondent supports both, the award as well as impugned judgment. Yet, it is clear from extract of said letter dated 2nd January, 2014 that there was no joint measurement made, in

presence of appellant. A direction of the Tribunal stood violated by a party before it and, it appears from the award, the Tribunal accepted it. Where the party in breach is the authority acquiring a private individual person's land and building, the Tribunal, also an authority, accepting violation of its direction regarding transparency in assessment by participation of the appellant in the process, makes this Court convinced that the authorities acted against public policy. Furthermore, the finding that no evidence was produced by appellant when appellant had obtained the interim measure of joint measurement in his presence, it not made, there is clear patent illegality appearing on face of the award.

5. Impugned judgment is set aside in appeal. As a consequence award dated 15th February, 2014 is also set aside. The matter is restored to the Tribunal for enforcing compliance of interim measure order dated 24th October, 2013 and thereupon adjudication and award.

6. The appeal is disposed of.

(Arindam Sinha)
Judge

RKS