

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6376 of 2016

1. Sudama Mahto
2. Birbal Mahto
Both sons of Late Dhupan Mahto, residents of village- Jhikatia, P.S. Navi Nagar (N.T.P.C.), Khaira, District- Aurangabad

... .. Petitioner/s

Versus

1. The Chairman National Thermal Power Corporation New Delhi
2. The Chief Executive Officer, N.T.P.C. Dalmia Nagar District- Rohtas
3. The District Magistrate Aurangabad
4. The District Land Acquisition Officer, Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Arun Kumar, Advocate
For the Resp./State	:	Mr. Sunil Kr. Mandal (SC-3)
		Mr. Bipin Kumar (AC to SC-3)
For the Resp./NTPC	:	Mr. Amaresh Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-12-2023 Heard learned counsel for the petitioner, State and National Thermal Power Corporation.

2. This writ application has been filed for issuance of direction to the concerned respondents to bifurcate the award prepared in the joint names of the petitioners with respect to the land acquired for B.R.B.C.L. Project under Land Acquisition Case No. 7 / 2010-11 and L.A. Case No. 44 / 2012-13 situated in village – Jhiketia, P.S. - Navi Naga, District – Aurangabad, as the private respondents have prepared joint award amounting to Rs. 11,27,668/- and Rs. 5,90,889/-without giving any notice to petitioners or filing any objection petition.



3. At the very outset, learned counsel for the respondent / National Thermal Power Corporation raises preliminary objection to the effect that petitioner has got alternative remedy by way of filing appropriate application before the Collector under Section 18 of the Land Acquisition Ac, 1894, which reads as follows:

“18. Reference to Court. - (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation amount the persons interested.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made, -

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire.”



4. Learned counsel for the petitioner does not dispute the above proposition and requests for disposal of the writ application granting liberty to the petitioner to file application before the Collector, Aurangabad / Respondent no. 3.

5. In the above view of the matter, this writ application is disposed of with liberty, as indicated above. If such application is filed by the petitioner, the authority concerned shall examine the same, after hearing the parties, and pass appropriate order in accordance with law.

6. It goes without saying that if any question of limitation arises before the authority concerned, the same shall be considered taking into consideration the fact that the petitioner was pursuing the issue before this Court under Article 226 of the Constitution of India.

7. Writ application stands disposed of with the aforesaid observations.

(Prabhat Kumar Singh, J)

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