

S. B. CIVIL WRIT PETITION NO. 6744/2007.

Ram Narain and ors.  
Vs.  
State

Date of Order : 31/8/2007.

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri Hridayesh Singh for the petitioners.

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The petitioners have challenged the order dated 20/6/2007 whereby their objections as to the correctness of the mutation record maintained by the Land Acquisition Officer and not to disburse the amount of compensation to respondents No.5 to 7 who have wrongly been entered as khatedars in the revenue record, have been rejected.

It is contended that the petitioners have filed appeal against the aforesaid order before the Additional Divisional Commissioner, Kota. Earlier to that, petitioners also filed an application before the Land Acquisition Officer raising grievance that till the controversy is finally settled by the revenue court, amount of compensation may not be disbursed to the respondents No.5 to 7. Learned counsel for the petitioner however has expressed apprehension that the Land Acquisition Officer is about to finalise the amount of compensation under Section 11 of the Land Acquisition Act, 1894 (for

short, "Act of 1894") and may immediately thereafter disburse the same to respondents No.5 to 7 and in that event, petitioners would be gravely prejudiced and no remedy would be left with them.

Having heard learned counsel for the petitioner and perused the material on record, I find that petitioners have indeed made an application to the Land Acquisition Officer in which it has been contended that they are cultivating the disputed land as khatedar because originally their father Pancha S/o Nenga by caste Mali was khatedar of the land but one Modu alias Modya got entered his name in the revenue record in regard to half of his portion and mutation was entered in his name. It was contended that the petitioners have approached the concerned revenue court against the said mutation having been wrongly entered in favour of the private respondents and till the suit is decided, the amount of compensation would not be disbursed to the respondents No.5 to 7.

The remedy for such like dispute is provided under Section 30 of the Act of 1894 which provides

that "When the amount of compensation has been settled under Section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Collector may refer such dispute to the decision of the court."

It is expected of the Land Acquisition Officer that before disbursing the amount of compensation, he would hear both, the petitioners as well as the respondents No.5 to 7 as to their entitlement of disbursement of amount of compensation and in case he finds that the dispute of disbursement requires to be referred to the competent civil court, pass such order in accordance with law. The petitioners would be at liberty to make a fresh application before the Land Acquisition Officer along with the certified copy of this order.

With this observation, the writ petition is disposed of.

(MOHAMMAD RAFIQ), J.