

WP(C) 2059/2011

BEFORE

HON'BLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

JUDGMENT & ORDER (ORAL)

Heard Mr. D.P. Chaliha, learned senior counsel for the petitioners, Mr. J. Roy, learned counsel for the respondent HPCL as well as Mr. S.S Roy, learned counsel appearing for the State respondent authorities.

2. The petitioners are owners of different plots of land located in Nokhola Grant in the present Morigaon district. The said land had been acquired under the Land Acquisition Act 1894. Upon the land being acquired, compensation was awarded by the District Collector of the then Nagaon district inasmuch as, at the time of acquisition, the present location was within the territorial jurisdiction of the undivided Nagaon district. Out of the said amount awarded, the petitioners were paid their due shares as per the award of the District Collector. Subsequently, some of the land owners had initiated a process for reference u/s 18 of the Land Acquisition Act, 1894, which ultimately culminated in the judgment and order dated 25.07.1995 of the Hon'ble Supreme Court. It is stated that as per the said judgment and order of the Hon'ble Supreme Court, the compensation payable per unit of land had been enhanced to the extent of '6375/- per bigha along with 30% solatium. Accordingly, the District Collector, Nagaon had made a calculation as to what would be the total amount payable by the requiring department being the Hindustan Paper Corporation Limited.

3. It is stated by Mr. J. Roy, learned counsel appearing for the respondent HPCL that the amount as calculated by the District Collector had been deposited by the requiring department with the District Collector, Morigaon as in the meantime, the Morigaon district had been created by bifurcating it from the erstwhile Nagaon district.

4. It is the case of the petitioners in this writ petition that in spite of such amount being determined by the Hon'ble Supreme Court and the amount being paid by the requiring department, the District Collector, Morigaon district is not paying the balance amount, being the enhanced amount to the petitioners.

5. In this respect, the petitioners had preferred an earlier writ petition being WP(C) No.682/2004, which was disposed of by the order dated 22.03.2004 by providing that the petitioners would prefer a representation before the District Collector, Morigaon claiming the enhanced amount and the District Collector, Morigaon would pass appropriate orders on the same. It is stated that pursuant to the said order, the appropriate representation had been filed, but the same had not been given a due consideration by the District Collector, Morigaon. It is stated that as the said representation was not filed in time, subsequently, an Interlocutory Application was also filed for extension of time, which was granted.

6. In the aforesaid circumstance, the determination in this writ petition would be as to whether the District Collector, Morigaon is required to pay the petitioners the enhanced amount over and above the amount, which had already been paid as per the original award. It is stated by the parties that the determination of the enhanced rate by the Supreme Court was per unit of the land which had been acquired and such decision was not confined to the parties, who were before the Supreme Court for the purpose.

7. It is the submission of the learned senior counsel for the petitioners that as the land of the petitioners had also been acquired, therefore, they would also be entitled to the enhanced rate. In the circumstance, it would now be for the District Collector, Morigaon to examine the matter and pass appropriate order as to why the enhanced amount had not been paid to the petitioners.

8. The District Collector, Morigaon shall undertake an exercise to find out the actual amount the requiring department is required to pay as per the enhanced rate determined by the Hon'ble Supreme Court vis- -vis the total amount of land acquired. Upon ascertaining the same, the District Collector would find out whether the requiring department had paid the whole amount or they are required to pay some more amount.

9. Accordingly, upon such determination, the District Collector, Morigaon would take appropriate steps for the requiring department to pay the further amount.

nt, if required to be paid. In the event, the District Collector is of the view that the requiring department has paid the full amount; in that event, the District Collector would undertake the exercise to pay the enhanced amount to the petitioners from the said amount that had been paid by the requiring department.

10. The District Collector in considering the representation of the petitioners would undertake the aforesaid exercise and arrive at a conclusion as to what is the amount that the petitioners are required to be paid and accordingly, bring the same to its logical end. The petitioners are also given the liberty to file fresh individual applications staking their claims so as to enable the District Collector, Morigaon to pursue with the matter. The fresh individual applications shall be filed within a period of one month from the date of receipt of a certified copy of this judgment and order and thereafter, within a period of six months, the District Collector shall examine the matter and pass a reasoned order thereon and do the needful as indicated above.

11. In the event, the District Collector for some reason rejects the claim of the petitioners, he shall state specific reasons thereof and provide the petitioners with a copy of such order.

Let a copy of this judgment and order be furnished to Mr. S.S. Roy, learned State Counsel.

In terms of the above, the writ petition stands disposed of.