

In The Court of Deputy Commissioner, Ramgarh

Misc. Case No.- 27/2012, Arjun Munda & other Versus State.
 28/2012, Krishna Nayak & other Versus State.
 29/2012, Jhaman Karmali Versus State.
 30/2012, Rajendra Prasad & other Versus State.
 31/2012, Moso. Golki Devi & other Versus State.
 32/2012, Chamaru Karmali & other Versus State.
 33/2012, Bhola Thakur & other Versus State.

Order

6.9.13

The case has arisen out of an order dated 03-09-2012 passed by Hon'ble Jharkhand High Court in W.P.(C) No. 2574/2012 wherein the undersigned has been directed to pass appropriate order after giving opportunity to petitioners. In consequence of the said order, all the petitioners filed petitions praying for payment of compensation or returning the land held by the Army to them.

All the cases are related to the land acquired for the army in village-Pochra and it was claimed that the following lands are in illegal occupation of the army because no compensation was ever paid to them. The details of land are as follows :-

Sl.	Case No.	Village	Khata No.	Plot No.	Area	Name of Petitioners
1.	27/2012	Pochra	25	1691, 1693, 1695, 1696, 1697, 1678, 1679, 1680, 1681, 1682, 1684, 1685, 1686, 1687, 1688, 1689, 1690	7.02 Acr.	Arjun Munda, Rameshwar Munda and Jugal Munda
2.	28/2012	Pochra	57	1610, 1611, 1612, 1613, 1614	2.00 Acr.	Krishna Nayak and Luma Nayak
3.	29/2012	Pochra	5	1651, 1665, 1666, 1667, 1668, 1669, 1670, 1676	2.66 Acr.	Jhaman Karmali
4.	30/2012	Pochra	36	1718, 1719, 1553,	3.39 Acr.	Rajendra Saw, Shiv Prasad and Dukhi Saw
5.	31/2012	Pochra	7	1672, 1709, 1713, 1737	2.95 Acr.	Moso. Golki Devi, Modi Karmali, Tulsi Karmali and Parshuram Karmali
6.	32/2012	Pochra	37	1658, 1659, 1660, 1661, 1662, 1663, 1664	2.90 Acr.	Chaman Karmali, Gangwa Devi and Padum Devi
7.	33/2012	Pochra	78	1714, 1715	1.45 Acr.	Bhola Thakur, Sanjay Thakur, Chandan Thakur and Ghanshyam Thakur

The petitioners have claimed that all the above stated land have been occupied by the Army without payment of any compensation despite the fact that the lands were recorded in names of their predecessors-in-interest. They have also stated that application for payment of compensation was given to the authorities but in vain. In support of the there claim, they have attached an information given under RTI Act by the DLAO, Hazaribagh vide letter No. 648 dated 15-10-2011 wherein it has been stated that the lands under dispute have not been acquired. It is also added that applications were given to the Defence Estate Officer, Danapur but it went in vain.

In all the cases, the respondent Defence Estate Officer (DEO), Danapur was noticed. An identical reply has been filed in all the cases which are part of the record. In the written reply, the DEO has stated that about 336.82 acres of land were acquired for the Army through L.A. Case No. 7/40-41 and even compensation amount of Rs. 18,990.60 was paid to the raiyats (tenants) concerned. In support of the Army's Stand, the DEO has submitted relevant documents like the Award List, the list of Abate of Rent the order sheet of L.A. Case No. 7 of 1940-41

All the documents submitted by the DEO, Danapur are xerox copies of the certified copy of L.A. Case No. 7 of 1940-41 and the same were issued on 03-12-2012. The DLAO, Ramgarh has also confirmed the same through the letter No. 1481 dated 20-12-2012. A bare perusal of the order sheet, award and the list of rent abatement reveals the lands were acquired and due compensation was paid. The L.A. Case No., details of land, area, amount of compensation and the name of recipients are given in the following table :-

Sl.	Case No.	Details of Land			Name of Recipients	Amount of Compensation
		Khata No.	Plot No.	Area		
1	27/2012	25	1691, 1693, 1695, 1696, 1697, 1678, 1679, 1680, 1681, 1682, 1684, 1685, 1686, 1687, 1688, 1689, 1690	7.02 Acr.	Moso. Surja W/o Dhena Munda	560-13-0
2	28/2012	57	1610, 1611, 1612, 1613, 1614	2.00 Acr.	1. Bhikhua Ghasi S/o Ghuja Ghasi 2. Sidhwa Ghasi S/o Ghuja Ghasi 3. Rijhwa Ghasi S/o Ghuja Ghasi	50-7-0 50-7-0 50-7-0
3	29/2012	5	1651, 1665, 1666, 1667, 1668, 1669, 1670, 1676	2.66 Acr.	Pachkauri Sahu S/o Ramdayal Sahu	156-12-0
4	30/2012	36	1718, 1719, 1553,	3.39 Acr.	Kandanwa Teli S/o Ruplal, Vijay Sahu and Sukra Teli S/o Pusa Teli	169-9-0

5	31/2012	7	1672, 1709, 1713, 1737	2.95 Acr.	Sukhiya Karmali and Lakhiya Karmali S/o Govinda	140-9-0
6	32/2012	37	1658, 1659, 1660, 1661, 1662, 1663, 1664	2.90 Acr.	Nandwa Karmali and Katka Karmali S/o Binda Karmali	298-2-0
7	33/2012	78	1714, 1715	1.45 Acr.	Khedwa Hazam S/o Dubria Hazam Tirth Nath Hazam S/o Ledwa Hazam	72-12-0

Now both the prayers of the petitioners namely a) compensation payment and b) return of land are being considered separately in the following paragraphs.

The above mentioned table reveals that the predecessors of the applicants had received compensation in all the land and even the rent paid in respect of their lands was deducted from the tenant's ledger. It is conclusively proved that the Army came in possession of land after paying due compensation in accordance with the rules prevalent at that time.

As far as return of acquired land is concerned, only Section 48 (1) of the Land Acquisition Act provides that the Government was entitled to withdraw acquisition of any land and after withdrawal of such acquisition, the land so acquired can be returned to the original owner.

Section 48 of the Land Acquisition Act reads as under :-

Completion of acquisition not compulsory, but compensation to be awarded when not completed. – (1) Except in the case provided for in Section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

From a bare perusal of Section 48(1) quoted above, it is clear that no doubt, this provision gives liberty to the Government to withdraw from acquisition any land whose possession has not been taken.

In the present case, it is nobody's case that after acquisition of the land in question, the possession of the lands were not taken by the Army. On the contrary the documents submitted in this record prove that possession was taken only after payment of compensation.

Ironically all the petitioners have made Letter No. 648 dated 15-10-2011 issued by the Land Acquisition Officer, Hazaribagh their main ground to prove that lands in question were never acquired. The said reply letter is addressed to Ranjan Prasad Sinha, Advocate, Jharkhand High Court under RTI Act and is concerned with L.A. Case No. 6 of 1940-41. Obviously all the lands concerning the present petitions were acquired in another Case No. 7 of 1940-41 and as such the basis of the present case is wrong. L.A. Case No. 6 of 1940-41 is irrelevant as far as the lands involved in present cases are concerned.

In view of the findings mentioned above, the petitioners are not entitled to get any relief by way of compensation or return of land. All the petitions are disallowed.

Written and Corrected by

Deputy Commissioner,
Ramgarh.

Deputy Commissioner,
Ramgarh.