

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).6111 OF 2021  
(arising out of SLP(C)No.22220 of 2019)

MANJARI TANTY @ LARIA

APPELLANT(S)

VERSUS

SPECIAL LAND ACQUISITION OFFICER  
AND SUB COLLECTOR, ULTRA MEGA POWER PROJECT,  
SUNDARGARH & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

The present appellant is aggrieved by the judgment and order dated 28.06.2019 passed by the Orissa High Court at Cuttack setting aside the findings recorded by the Civil Judge (Senior Division), Sundargarh, Odisha vide order dated 16.02.2016 directing the present appellant to be entitled to 50% of share of the compensation as awarded by the Reference Court under Section 30 of the Land Acquisition Act, 1894 ("the Act").

The acquisition proceedings in reference to the subject land in question were initiated pursuant to the Notification dated 28.04.2010 published by State Government under Section 4 of the Act and the subject land of one Late Jadumani admeasuring Ac.7.690 decimals under Hal Khata No.35 of mouza in Village Lankahuda, District Sundargarh, Odisha, was acquired.

Pursuant to the subject land was acquired, the claim application was preferred by the aggrieved person(s) before the Land Acquisition Officer (LAO) including the present appellant and respondent no.3. The appellant herein claimed 50% of the awarded amount of compensation as one of the legal representative/heir of the deceased land holder of Late Jadumani. The LAO accepted the claim of respondent no.3 on the basis of the Will, disowning the claim of the present appellant on the premise that Kuladhara father of the appellant was pre-deceased on 14.07.1973 before the death of Jadumani.

On appeal being preferred at the instance of the present appellant before the Ld.Senior Civil Judge, Sundargarh, Odisha, the finding was reversed and it was observed that the Kuladhara, father of the appellant died on 14.07.1993 and the appellant was entitled for 50% share of the compensation awarded by the Reference Court, but on further appeal being preferred by the respondent no.3, the finding of the Land Acquisition Officer was restored holding the death of Kuladhara, father of the appellant was pre-deceased on 14.07.1973.

This Court in its order dated 17.12.2019 observed as under :

"The only question involved in this petition is regarding the death of Kuladhar. Learned counsel for the petitioner submits that he has died on 14.7.1993 whereas learned counsel for the respondent submits that Kuladhar has expired on 14.07.1973.

However, the death certificate issued by the concerned authorities shows that Kuladhar's death was on 10.05.1983.

Learned counsel for the petitioner is directed to produce certified copy of the birth and death register before this Court finally within three weeks from today.

Status quo, existing as on today, shall be maintained with regard to the compensation.

List after three weeks."

In sequel thereof, by order dated 31.01.2020, this Court directed the Principal District Judge, Sundargarh in the State of Odisha to conduct an enquiry regarding the date of death of Kuladhara Tanty s/o late Brundaban Tanty, resident of Village/P.O. Lankahuda, P.S. Sadar, District Sundargarh and submit a report to this Court.

In compliance of order of this Court, Ld. District & Sessions Judge, Sundargarh conducted inquiry and submitted its report to this Court finally arriving at a conclusion after appreciation of the evidence being filed by the respective parties and also taken into consideration the oral evidence which was produced before him, observed that death of Kuladhara had taken place on 14.07.1993 in Village Raibaga.

Mr. Ramakant Mohanty, learned senior counsel for respondent no.3 submits that during the pendency of the proceedings, 14.07.1973 was the date of death of Kuladhara was on record and at one stage an application was filed at the instance of the present appellant seeking amendment

treating it to be a typographical error to show the date of death of Kuladhara to be 14.07.1993. The application for amendment was dismissed and revision petition preferred at the instance of the appellant was declared to be infructuous.

Learned counsel further submits that once the application for amendment seeking change of date of death of Kuladhara has been rejected, it may not be in the interest of justice in taking the report of the Ld. District & Sessions Judge, Sundargarh who has not appreciated the evidence in the right perspective to record a finding regarding the date of death of Kuladhara.

After we have heard learned counsel for the parties and taking into consideration the report of Ld. District & Sessions Judge, Sundargarh which has been furnished by him on 28.09.2020 pursuant to the order of this Court dated 31.01.2020 and arrived at conclusion that death of Kuladhara had taken place on 14.07.1993 in Village Raibaga. We accept the report.

In our considered view, the order of the High Court impugned dated 28.06.2019 in the light of what has been afore-stated, deserves to be set aside.

Consequently, the appeal succeeds and is, accordingly allowed. The order of the High Court impugned dated 28.06.2019 is hereby, quashed and set aside. We confirm the order dated 16.02.2016 of Ld.Senior Civil Judge, Sundargarh, Odisha and the appellant is entitled to claim 50% of her share of compensation in terms of order dated 16.02.2016.

Pending application(s), if any, shall stand disposed  
of.

..... J.  
(AJAY RASTOGI)

..... J.  
(ABHAY S OKA)

NEW DELHI  
SEPTEMBER 27, 2021

ITEM NO.2 Court 14 (Video Conferencing)

SECTION XI-A

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 22220/2019

(Arising out of impugned final judgment and order dated 28-06-2019  
in LAA No. 27/2016 passed by the High Court Of Orissa At Cuttack)

MANJARI TANTY @ LARIA

PETITIONER(S)

VERSUS

SPECIAL LAND ACQUISITION OFFICER  
AND SUB COLLECTOR, ULTRA MEGA POWER PROJECT,  
SUNDARGARH & ORS.

RESPONDENT(S)

(With IA No. 16275/2020 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES & IA No. 151325/2019 - PERMISSION TO FILE  
ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-09-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI  
HON'BLE MR. JUSTICE ABHAY S. OKA

For Petitioner(s) Mr. Ajit Kr. Sinha Sr. Adv  
Mr. Avnish Kumar Sharma Adv  
Mr. Ramendra Mohan Patnaik, AOR

For Respondent(s) Mr. Ramakant Mohanty, Sr. Adv.  
Mr. Deepankar Bharadwaj, Advocate  
Mr. Nagarkatti Kartik Uday, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The Civil Appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NIRMALA NEGI)  
COURT MASTER (SH)

(BEENA JOLLY)  
COURT MASTER (NSH)

(Signed order is placed on the file)