

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 21 OF 2012

1. State of Chhattisgarh,
Through : The Secretary,
Department of Water Resources,
D.K.S. Bhawan, Mantralaya,
Raipur (C.G.)
2. The Collector, Janjgir-Champa (C.G.)
3. The Land Acquisition Officer,
Hasdeo-Bango Dam, Sakti,
Distt. Janjgir-Champa (C.G.)
4. The Executive Engineer,
Minimata Hasdeo-Bango Canal,
Sub-Division: 10, Malkharoda,
Distt.: Janjgir-Champa (C.G.)
5. The Sub-Divisional Officer,
Minimata Bango Canal,
Sub-Division: 10, Malkharoda,
Distt.: Janjgir-Champa (C.G.)

... Appellants

Versus

1. Rajkumar Sahu, aged about 35 years,
2. Arvind Sahu, aged about 32 years,
Both R/o Village : Amandula Tahsil:
Malkharoda, Distt.: Janjgir-Champa (C.G.)
3. Nanki Dau Chandra S/o Shri Sant Ram Chandra
aged about 38 years, R/o Village : Amandula
Tahsil : Malkharoda, Distt. Janjgir-Champa (C.G.)

... Respondents

For Appellants	:	Mr. Prafull Bharat, Addl. Advocate General.
For Respondents	:	Mr. H.S. Patel, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgement on Board

Per Navin Sinha, C.J.

10/04/2015

1. The present Appeal arises from the order dated 23.9.2011 allowing Writ Petition (C) No.2555 of 2011 directing payment of compensation along with solatium and interest to respondents 1 and 2 for the occupation of their lands without valid land acquisition proceedings, imposing costs of Rs.1 Lac payable to each of them. Further directions have been given to enquire if the lands of Respondent No.3 had also been acquired, in which event he was held entitled to the same reliefs.

2. Learned Additional Advocate General appearing on behalf of the Appellants submits that user of the lands in Khasra Nos. 686/3 and 686/6 jointly owned by respondents 1 and 2 to the extent of 0.030 acres only for construction of canal without valid acquisition proceedings is not denied. Fresh acquisition proceedings have been conducted, compensation determined and award prepared in terms of the directions of the Court. With regard to Respondent No.3, the counter-affidavit had contended that his lands in Khasra No. 601 had not been utilized for construction of the canal. Lands in Khasra No. 600 to the extent of 0.016 acres in the name of one Mahettar S/o Ratthu had been utilised for the purpose. No rejoinder had been filed by Respondent No.3. The Learned Single Judge therefore erred in granting relief to Respondent No.3.

3. There are no allegation of mala fides. The lands have not been utilized for a private purpose under the garb of executive powers. The lands have been utilised for the construction of canal, which is a public purpose. The zeal in constructing the canal without complying procedures in the law may have not been appropriate. The costs awarded are to be paid from public funds. Respondents Nos. 1 and 2 have now received the compensation amount at the present rates based on the date of Section 4 notification. The award of costs of Rs.1 Lac each to Respondents Nos. 1 and 2 is therefore excessive and calls for interference.

4. Counsel for the Respondents submitted that adequate interest has not been paid to Respondents Nos. 1 and 2 on the compensation awarded. We are not inclined to entertain that objection as the Respondents had remedies available to them in the law if they were dissatisfied with regard to the compensation or interest awarded.

5. Insofar as Respondent No.3 is concerned, we find from the records that he wrote to the Land Acquisition Officer on 10.2.2012 that compensation in respect of his lands to the extent of 0.18 acres had wrongly been paid to

Mahettar S/o Ratthu and after he had objected to the same, the latter had deposited the amount back. There appears to be no final order passed by the authorities after inviting Respondent No.3 for a personal hearing on 1.2.2012 pursuant to the order of the Learned Single Judge. We therefore direct that the District Collector, Janjgir, shall himself hold an inquiry with regard to the fact if any lands of Respondent No.3 have been acquired for the purpose of the canal and pass a reasoned and speaking order in accordance with law. If the Collector arrives at a conclusion for acquisition of the lands of Respondent No.3, he shall simultaneously take necessary steps for making lawful acquisition in accordance with law like Respondent No.1 and 2 considering that the canal has been constructed long years ago. Thereafter if aggrieved, Respondent No.3 may pursue remedies in accordance with law.

6. In the facts and circumstances of the case and considering the submissions made by Additional Advocate General with regard to the nature of utilisation of the lands for a public purpose, though done over-zealously but without any private action or benefit, there being no allegations of malafides, solatium and interest also having been awarded and compensation determined on basis of the date of the subsequent Section 4 notification and not the date of user of the lands, we consider the present a fit case for setting aside the costs of Rs.1 Lac awarded to the Respondents which ultimately would have to be paid from the public funds.

7. The Appeal is allowed only to the extent of costs awarded along with directions to the Collector with regard to Respondent No.3.

(Navin Sinha)
Chief Justice

(P. Sam Koshy)
Judge