

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 19 of 2015

1. Yogendra Kumar Sahu, S/o Late Shri Navalkishore Sahu, Aged About 50 years, R/o Pathraguda Ward, Jagdalpur, Distt. Bastar, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Revenue Department, Mantralaya, Raipur, Chhattisgarh
2. The Collector, Jagdalpur, Distt. Bastar, Chattisgarh
3. The Sub Divisional Officer (Rev.) cum Land Acquisition Officer, Jagdalpur, Distt. Bastar, Chhattisgarh
4. C.G. Grih Nirman Mandal, Through : Executive Engineer, C.G. Grih Nirman Mandal, Div. Jagdalpur, Bodhghat Housing Board Colony, Jagdalpur, Distt. Bastar, Chhattisgarh

---- Respondents

And

REVP No. 20 Of 2015

1. Budru Kashyap, S/o Dayaram Kashyap, Aged About 32 years, R/o Dalpan Sagar Ward, Jagdalpur, District Bastar, Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh, Through The Secretary, Department Of Revenue, Mantralaya, Raipur, Chhattisgarh
2. The Collector, Jagdalpur, District Bastar, Chhattisgarh
3. The Sub Divisional Officer (Revenue) cum Land Acquisition Officer, Jagdalpur, District Bastar, Chhattisgarh
4. The Chhattisgarh Grih Nirman Mandal, Through The Executive Engineer, Division, Jagdalpur, Bodhghat Housing Board Colony, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

And

REVP No. 21 Of 2015

1. Father Thedor Toppo S/o Polus Toppo, Aged About 45 years, R/o Nirmal Sadan, Dhamrampura, Jagdalpur, District Bastar, Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through : The Secretary, Department Of Revenue, Mantralaya, Raipur, Chhattisgarh
2. The Collector, Jagdalpur, District Bastar, Chhattisgarh
3. The Sub Divisional Officer, (Revenue) cum Land Acquisition Officer, Jagdalpur, District Bastar, Chhattisgarh
4. The Chhattisgarh Grih Nirman Mandal, Through The Executive Engineer, Division, Jagdalpur, Bodhghat Housing Board Colony, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

And

REVP No. 22 Of 2015

1. Smt. Madhukala Jha, W/o Shri Ramanand Jha, Aged About 62 years, R/o Dalpat Sagar Ward, Jagdalpur, District Bastar

---- Petitioner

Vs

1. State Of Chhattisgarh, Through The Secretary, Department Of Revenue, Mantralaya, Raipur, Chhattisgarh
2. The Collector, Jagdalpur, District Bastar, Chhattisgarh
3. The Sub Divisional Officer (Revenue) Cum Land Acquisition Officer, Jagdalpur, District Bastar, Chhattisgarh
4. The Chhattisgarh Grih Nirman Mandal, Through The Executive Engineer, Division Jagdalpur, Bodhghat Housing Board Colony, Jagdalpur, District Bastar, Chhattisgarh

For Petitioners	Shri Manoj Paranjape, Shri Manay Nath Thakur & Shri Harshal Chouhan, Advocates.
For Respondent/State	Ms. Smiti Sharma, Dy. Govt. Advocate.
For Respondent/Housing Board	Shri Jitendra Pali, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

19/03/2015

1. By common order dated 9-2-2015 this Court decided four writ petitions, bearing WP (C) Nos.3908/2008, 3693/2007, 4089/2007 and 4608/2008, which arose out of land acquisition case Nos.10/A-82/04-05/04/2005 (Village Aghanpur) and 11/A-82/2004-05/2005 (village Hatkachora).
2. In both the cases the acquisition proceedings began under the Land Acquisition Act, 1894 (for short 'the Act, 1894'), however, during pendency of the writ petitions the said Act was repealed by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act, 2013'). Since in both the land acquisition cases neither the compensation was paid nor possession was taken over within 5 years of passing the award, this Court relied on the provisions contained in Section 24 (2) of the Act, 2013 to declare that the land acquisition proceedings have lapsed.

3. On the date when this Court passed the order, the President of India had promulgated Ordinance with respect to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 (No.9 of 2014) amending the Act, 2013, which was published in the Gazette of India on 31-12-2014.
4. Since the Ordinance was operative on the date final order was passed by this Court, but the effect thereof was not considered by this Court, these four review petitions were directed to be registered.
5. Shri Paranjape learned counsel appearing in Review Petition Nos.20 & 21 of 2015, would submit that an occasion arose before the Supreme Court to consider the effect of Ordinance in **M/s Radiance Fincap (P) Ltd. & Ors. v. Union of India & Ors.**¹, decided on 12-1-2015, therefore, the issue is no longer *res integra* and no case for reviewing the order passed by this Court is made out.
6. I have heard learned counsel appearing for the parties and perused the record including the order passed by the Supreme Court in **M/s Radiance Fincap (P) Ltd. (supra)** and **Karnail Kaur & Ors. v. State of Punjab & Ors**², decided on 22-1-2015.
7. In both the above referred judgments, the Supreme Court, after quoting its earlier decisions in **Garikapati Veeraya v. N. Subbiah Choudhary and Others**³, **Shyam Sunder and Others v. Ram**

¹ 2015 (1) SCALE 677

² 2015 Law Suit (SC) 50

³ AIR 1957 SC 540

Kumar and Another⁴, K.S. Paripoornan v. State of Kerala and Others⁵ and Hitendra Vishnu Thakur and Others v. State of Maharashtra and Others⁶, has held that a vested right conferred on a litigant by a statute cannot be taken away by amending the Act. Thus, the Supreme Court held that Section 24 (2) of the Act, 2013 having conferred a statutory right on the persons whose land has been acquired by passing an award more than 5 years back from the date of coming into effect of the Act, but either the possession has not been taken or the compensation has not been paid, the award would be deemed to have been lapsed and this right being the substantive right cannot be taken away retrospectively by amending the provision.

8. In view of the fact that the effect of the new proviso inserted vide Ordinance No.9 of 2014 has already been considered by the Supreme Court no case for review or recall of the earlier order passed in WP (C) Nos.3908/2008, 3693/2007, 4089/2007 and 4608/2008 is made out.
9. As a sequel, all the review petitions are liable to be and are hereby dismissed.

Gowri

Sd/-
Prashant Kumar Mishra
Judge

⁴ (2001) 8 SCC 24

⁵ (1994) 5 SCC 593

⁶ (1994) 4 SCC 602