

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1704 of 2015

- 1. Shivshankar Yadav S/o Late Bholanath Yadav, Aged About 45 Years R/o Dhank, Police Station Patewa, Tahsil & District Mahasamund Chhattisgarh Civil & Revenue District Mahasamund Chhattisgarh
- 2. Jayprakash Yadav, S/o Late Bholanath Yadav, Aged About 40 Years R/o Dhank, Police Station Patewa, Tahsil & District Mahasamund Chhattisgarh Civil & Revenue District Mahasamund Chhattisgarh

---- Petitioners

Versus

- 1. Union Of India S/o Through The Secretary, Department Of Road, Transport And Highways 5th Floor, Transport Bhawan 1, Parliament Street, New Delhi, Delhi 110001
- 2. National Higways Authority, Road, Transport And Highways 5th Floor, Transport Bhawan 1, Parliament Street, New Delhi Delhi 110001
- 3. Project Director, Project Operation Unit, Raipur, Police Staiton Civil Lines Raipur , Tahsil & District Raipur Chhattisgarh Civil & Revenue District Raipur Chhattisgarh
- 4. Sub Divisional Officer Cum Land Acquisition Offcer, Mahasamund, P.S. City Kotwali, Tahsil & District Mahasamund Chhattisgarh Civil & Revenue District Mahasamund Chhattisgarh

---- Respondents

For Petitioner.	: Shri Ratnesh Kumar Agrawal, Advocate.
For Respondent No 1, 2, 3.	: Shri Rajkumar Gupta, Advocate.
For Respondent No 4/State.	: Shri S. P. Kale, Dy. Advocate General.

Order On Board

22/09/2015

Heard.

1. The grievance of the petitioner is set out in the petition is that though only 2208 Sq. mt. of the land belonging to the petitioner was acquired, while constructing road, the National Highway Authority has encroached upon land more than acquired land of the petitioner. The petitioner has submitted representation to respondent no. 4 but till date no decision has been taken.
2. The nature of dispute between the parties is of factual nature and it would depend upon the demarcation report as to whether, land of the petitioner in excess of what has been acquired, is being encroached upon by National Highway Authority. The SDO/Land Acquisition Officer Mahasamund, shall obtain a demarcation report from the Revenue Authorities. The demarcation shall be done in the presence of the petitioner after giving him due notice of time and date. Depending upon the demarcation report the authorities shall take proper steps. To clarify, it is observed that if upon demarcation it is found that land in excess of that has been acquired, is sought to be utilised, it would be acquired in accordance with law before being utilized. However, if it is found that the construction is going on only on that part of the land and the compensation has been given to the petitioner for that land, the authority may continue with the construction activities.
3. In the interest of both the parties, SDO is directed to get demarcation done within a period of 30 days from the date of receipt of certified copy of this order. The petitioner shall submit a copy of this order to SDO within 15 days and on that day itself the SDO shall fix the demarcation under notice to the petitioner.
4. Accordingly, the petition is finally disposed off.

Sd/-

Manindra Mohan Shrivastava

Judge