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HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1550 of 2013

1. Gopal, S/o Late Ram Bhagat, Aged About 60 years.

2. Sant Kumar, S/o Late Ram Sunder, Aged About 28 Years.

3. Nand Kumar, S/o Late Ram Sunder, Aged About 30 Years.

4. Phoolmati, D/o Late Ram Sunder, Aged About 25 Years.

5. Indra Kunwar, W/o Late Ram Sunder, Aged About 48 Years.

6. Dhansai, S/o Late Ram Bhagat, Aged About 58 Years.

   All R/o Village Dumaria, Post, PS & Tah Surajpur, Civil & Revenue Distt Surajpur, CG.

---- Petitioners

Versus

1. State of Chhattisgarh, Through The Secretary, Department Of Energy/department Of Revenue & Disaster Management, Mahanadi Bhawan, Naya Raipur, Civil & Revenue Distt Raipur, CG

2. Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC), Jeevan Bima Parisar, Pandri, Civil & Revenue Distt Raipur, CG

3. Director Directorate Of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Civil & Revenue Distt Raipur, CG

4. Collector, Sarguja, Civil & Revenue Distt Sarguja CG

5. Collector Surajpur, Civil & Revenue Distt Surajpur, CG

6. Land Acquisition Officer, Thermal Power Project Premanager/Bhaiyathan Head Office Ambikapur, Civil & Revenue Distt Sarguja, CG

7. SDO (Revenue) Surajpur, Civil & Revenue Distt Surajpur, CG.

8. Tehsildar, Surajpur, Civil & Revenue Distt Surajpur, CG.

9. Executive Engineer (Civil), C.S.P.G.C.L., Bishrampur, Civil & Revenue Distt Surajpur, CG

10. M/s Sarguja Rail Corridor Private Ltd., Adani Group, Ketka Road, Behind Shyam Mandir, Surajpur, Civil & Revenue Distt Surajpur, CG.

---- Respondent

And

WPC No. 1555 Of 2013

1. Babulal, S/o Sahdev, Aged About 55 years, Caste Rajwar, Occupation Agriculturist, R/o Village Dumaria, Post P.S. & Tehsil Surajpur, Revenue & Civil Dist. Surajpur C.G.

---- Petitioner

Versus

1. State of Chhattisgarh, Through The Secretary, Department Of Energy/department Of Revenue & Disaster Management, Mahanadi Bhawan, Naya Raipur, Civil & Revenue Distt Raipur, CG

2. Managing Director, Chhattisgarh State Industrial Development Corporation (CSIDC), Jeevan Bima Parisar, Pandri, Civil & Revenue Distt Raipur, CG

3. Director Directorate Of Industries, 2nd Floor, Life Insurance Corporation Commercial Premises, Civil & Revenue Distt Raipur, CG

4. Collector, Sarguja, Civil & Revenue Distt Sarguja CG

5. Collector Surajpur, Civil & Revenue Distt Surajpur, CG

6. Land Acquisition Officer, Thermal Power Project Premanager/Bhaiyathan Head Office Ambikapur, Civil & Revenue Distt Sarguja, CG

7. SDO (Revenue) Surajpur, Civil & Revenue Distt Surajpur, CG.

8. Tehsildar, Surajpur, Civil & Revenue Distt Surajpur, CG.

9. Executive Engineer (Civil), C.S.P.G.C.L., Bishrampur, Civil & Revenue Distt Surajpur, CG

10. M/s Sarguja Rail Corridor Private Ltd., Adani Group, Ketka Road, Behind Shyam Mandir, Surajpur, Civil & Revenue Distt Surajpur, CG.

---- Respondent

For Petitioners	Shri Sarfraj Khan, Advocate
For Respondent/State	Shri Adiraj Surana, Dy. Govt. Advocate
For Respondent No.2	Shri Ayaz Naved, Advocate
For Respondent No.9	Shri K.R. Nair, Advocate
For Respondent No.10	Dr. N.K. Shukla, Sr. Adv. with Shri Shailendra Shukla, Advocate

Shri M.L. Dhratlahare, Land Acquisition Officer, Surajpur, Shri P.S. Sanyal, Executive Engineer (Civil), Chhattisgarh State Power Generation Company Ltd., Bishrampur, Surajpur and Shri M.S. Raghuwanshi, Dy. Collector, Surajpur, are also present.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

05/03/2015

1. Although relief for quashment of land acquisition proceeding has been prayed in both the writ petitions i.e. WP (C) No.1550 of 2013 (henceforth 'first petition') and WP (C) No.1555 of 2013 (henceforth 'second petition'), in course of hearing learned counsel appearing for the petitioners would restrict his submission only to the extent payment of compensation originally fixed by the Land Acquisition Officer while passing the award dated 22.12.2011, which was duly approved by the Collector on the same date.

2. Admittedly, the land acquisition proceeding was initiated for the benefit of M/s Sarguja Rail Corridor Private Limited, Adani Group, Ketka Road, Behind Shyam Mandir, Surajpur, in which petitioners' lands were also notified for acquisition. The Land Acquisition Officer eventually passed an award on 22.12.2011. In the said award, the petitioners of first petition were held to be entitled to get compensation of Rs.28,41,696/- and the petitioners of second petition were held to be entitled to get compensation of Rs.30,26,648/-. In the first case, the petitioners were paid an amount Rs.7,23,100/- on 31.12.2011 and in the second case, an amount of Rs.7,70,952/- was paid to the petitioners on the same date. When the remaining amount of compensation was not paid to the respective

petitioners, they moved a representation before the Collector on 08.08.2013, however, the balance amount remains still unpaid, therefore, the petitioners have preferred these writ petitions.

3. Learned counsel appearing for the petitioners would submit that the award having not been subjected to any modification under any permissible statutory provision, the non-payment of balance amount is wholly arbitrary and illegal. Learned counsel would submit that as a matter of fact, there is no provision in the Land Acquisition Act, 1894 (for short 'the Act') which empowers the Land Acquisition Officer to amend an award to reduce the amount of compensation already assessed by the Land Acquisition Officer at the time of preparation of award.

4. Per contra, learned counsel appearing for the respondents would submit that the subject lands acquired from the petitioners are, in fact, located more than 20 meters away from the road and, as such, it was not assessable as prime land falling on the road, however, the Land Acquisition Officer wrongly calculated the amount of compensation payable to the petitioners by treating the land as prime land located on road. Learned counsel would further submit that since there was a clerical error in assessment of compensation, the same has been reduced after obtaining a report from the Revenue Inspector, wherein the petitioners were present at the time spot inspection was made by the Revenue Inspector.

5. No other points were raised by both the parties before this Court.

6. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto.

7. Section 13-A of the Act reads thus:-

> "**13-A. Correction of clerical errors, etc.—**(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under Section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistakes in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:
>
> Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.
>
> (2) The Collector shall give immediate notice of any correction made in the award to all the persons interested.
>
> (3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered as an arrear of land revenue."

8. A bare perusal of the aforesaid provision would indicate that for proceeding under Section 13-A of the Act, for correction of any clerical error, the Collector may initiate the proceeding within six months from the date of award, or where he has been required under Section 18 to make a reference to the Court, before making of such reference and the said correction is to be made only after giving the person concerned a reasonable opportunity of making a representation in the matter.

9. On the previous date of hearing, this Court has summoned the concerned Land Acquisition Officer along with complete record of the concerned land acquisition proceeding. The Land Acquisition Officer and the Deputy Collector as also the OIC of the case are present along with the record before this Court.

10. This Court requested the learned State counsel to verify the complete record to find out whether any proceeding under Section 13-A was initiated by the concerned Collector by issuing the notice under the proviso to Section 13-A (1) of

the Act.

11. Learned State counsel verified the record with the assistance of the officers present in the Court and stated that the record does not contain any such proceeding.

12. In view of the above, since no proceeding has been initiated under Section 13-A of the Act, there was no occasion before the Collector to exercise power under the said provision. Even otherwise, the so called reduction in the amount of compensation was made for the first time on 25.10.2012 in form a letter by the Revenue Inspector to the Tehsildar and it is this letter which persuaded the authorities not to make the payment of balance amount of compensation. The letter cannot form basis of invocation of provision under Section 13-A, in absence of any proceeding having been drawn by the competent Collector. Moreover, the said letter was issued after six months from the date of passing of the award and, thus, the same was beyond the time fixed by the statutory provision for exercising the power.

13. For the foregoing, both the writ petitions are allowed in part. The petitioners are entitled to get the complete amount as mentioned in the award. The payment shall be made within a period of four weeks from the date of submission of certified copy of this order.

14. Needless to say that the applicable Rehabilitation and Resettlement Policy (R & R Policy) of the State be followed, as is followed in all cases of compulsory land acquisition.

15. There shall be no order as to costs.

J u d g e

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