

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Appeal No. 1317 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Shri Uday Narayan Jaiswal

---- Respondent

Misc. Appeal No. 1323 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Shri Shankarlal & Anr.

---- Respondents

Misc. Appeal No. 1324 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Smt. Fulbai & Ors.

---- Respondents

Misc. Appeal No. 1325 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Smt. Lalitabai & Ors.

---- Respondents

Misc. Appeal No. 1326 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Shri Kamlesh & Ors.

---- Respondents

Misc. Appeal No. 1327 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Smt. Rambai & Ors.

---- Respondents

AND

Misc. Appeal No. 1328 of 1996

South Eastern Coal Fields Ltd.

-- Appellant

Versus

Smt. Jamuna Kunwar & Ors.

---- Respondents

For Appellants	:	Shri H.B. Agrawal, Sr. Advocate with Ms. Itu Rani Mukharjee, Advocate
For Respondents	:	Shri A.C. Sahu, Advocate in Misc. Appeal No. 1323/1996.
None for the respondents in rest of the Misc. Appeals.		

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Chandra Bhushan Bajpai**
ORDER

Per Prashant Kumar Mishra, J

08/09/2016

1. These are the batch of Misc. Appeals filed under Section 20(1) of the Coal-Bearing Areas (Acquisition And Development), Act of 1957 (hereinafter referred to as the 'Act 1957'), challenging the order passed by the Tribunal (Presided over by the District Judge) constituted under Section

15 (2) of the Act 1957.

2. Indisputably, the appellant, a subsidiary company of the Coal India Limited, acquired the subject land for its Dipika Project in the year 1986-1987. Upon completion of the acquisition proceedings, the appellant-Company proceeded to take possession of the acquired land in terms of the provisions contained in Section 12 of the Act 1957. However, the respondents/land owners resisted the effort of the appellant-Company in obtaining possession and no agreement could be arrived at between them in respect of proper compensation to be paid for the superstructure built on the acquired land. Resultantly, the matter was required to be referred to the Tribunal for determining the compensation as provided under Section 14 of the Act 1957. Section 14 provides that where the amount of any compensation payable under this Act can be fixed by agreement, it shall be paid in accordance with such agreement. However, where no such agreement can be reached, the Central Government shall constitute a Tribunal consisting of a person who is or has been or is qualified to be a Judge of a High Court for the purpose of determining the amount.

3. The District Judge, Korba was appointed to function as Tribunal under Section 14 (2) of the Act and the said Tribunal has rendered the impugned award.

4. The land holders were demanding compensation for the construction raised on the acquired land which was resisted by the appellants-Company on the plea that the entire land is not within the area of Dipika Project or that the construction made by the land owners was after the publication of notification under Sections 4 & 7 of the Act 1957. It was stated by the

appellants that a person is entitled for compensation for any damage sustained or the expenditure incurred in raising construction or losing value of the trees when such construction or other property was available on the date of acquisition and not afterwards. The SECL also raised a dispute that the Tribunal has no jurisdiction to decide the matter regarding compensation to the concerned individual as they are not “person interested” within the meaning of sub-section (4) of Section 14 of the Act 1957.

5. Per contra, it was the plea of the respondents that the construction has been raised by them, therefore, they are entitled to be compensated. It appears that in some cases, the land belongs to one person and the construction has been raised by another person, therefore, the dispute arose as to whether the other person who has raised the construction would be covered within the meaning of “person interested” or not as defined in sub-section (4) of Section 14 of the Act 1957.

6. After affording opportunity to both the parties to lead evidence, the District Judge has concluded that:

(i) in cases where the land belongs to some other person and the construction has been raised by another, the person who has raised the construction would be the “person interested” to claim compensation;

(ii) the SECL has failed to prove by producing credible evidence that the concerned individual has raised the construction after issuance of notification under Section 4 of the Act 1957.

7. Shri Agrawal, learned Senior Counsel appearing on behalf of the

appellants-Company would vehemently urge that the Tribunal has misread the evidence and has recorded impermissible finding that the respondents are the “person interested” to claim compensation. He would also submit that the compensation has not been assessed in accordance with the principles mentioned in sub-section (5) of Section 14 of the Act 1957, therefore, the impugned award deserves to be set aside.

8. Per contra, Shri A.C. Sahu, learned counsel appearing on behalf of the respondents in Misc. Appeal No. 1323/1996 would support the impugned award. In rest of the appeals respondents are not represented by any counsel.

9. We have heard learned counsel for the parties at length and perused the record.

10. The word 'person interested' has been defined under Section 2 (d) of the Act, 1957 in the following manner :

2(d) the expression “person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land, or of the acquisition, extinguishment or modification of any rights in or over land, under this Act;

11. Construing the word 'person interested' the Supreme Court in **Karanpura Development Company Vs. Union of India and others, AIR 1988 SC 1478** has held that the holder of head lease for mining in Bihar is 'person interested' within Section 2 (d) when the lease was subsisting before vesting in State of area comprised in lease under the Land Reforms

Act.

12. A somewhat similar definition of the term 'person interested' has been made in Section 3(b) of the Land Acquisition Act, 1894 in the following manner :

(b) the expression “person interested” includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land;

13. Dealing with the said definition of the word 'person interested' in the Act, 1894, the Full Bench of Punjab and Haryana High Court in **State of Punjab Vs. Gurdial Singh and another, AIR 1984 P & H 1**, has held that the term is merely an inclusive definition and Precedent has extended the concept of a 'person interested' to the widest of amplitude. As a necessary consequence, apart from land owners, every mortgagee, a tenant, a lessee, a person having an easement over the land and a host of others would come within the phraseology of the language.

14. In **Katari Satyanarayana and others Vs. The District Collector, Krishna at Machilipatnam, AIR 1990 Andhra Pradesh 326**, the Division Bench of the Andhra Pradesh High Court held that a 'tenant' who is governed by the Andhra Tenancy Act is person includible in the expression 'person interested' hence, he can raise objections to acquisition of the land of which he is the tenant.

15. In view of the above, such respondents/claimants who are not the

owner of the land but were in possession of such land with the permission or consent of the land owner and have raised construction over the land would come within the purview of 'person interested' and are entitled to receive compensation.

16. In so far as the question as to whether the land falls within the area of Dipika or Gevra Project is concerned, the same may be different areas for the SECL to maintain its own account as to disbursement of compensation from the amount available for one or the other Project. SECL may settle its account between the two Projects but the land owners or the owners of the superstructure cannot be denied compensation for this dispute.

17. The other issue is concerning the period of raising construction by the respondents. On the one hand, it is the contention of the SECL that the constructions were made after issuance of Section 4 notification, whereas, the respondents would argue that the constructions were made prior to the date of issuance of notification.

18. The Tribunal has elaborately considered this aspect of the matter in para 19 of the impugned award in M.A.No.1317 of 1996.

19. On appreciation of evidence the Tribunal has concluded that SECL has failed to prove as to what part of the construction is new and what part is old. Even if, some additional constructions were made after issuance of the notification, in the absence of proof as to what part was constructed later on, the Tribunal was not in a position to assess the compensation separately for the old construction and the new when the entire construction available on the spot is inseparable as there is evidence to the

effect that in some cases *Pakka* structures have been raised. Similarly, findings in respect of existence of trees on the date of notification is also a finding of fact. Thus, considering the evidence in its entirety, it does not appear that the Tribunal has either gone tangent in appreciating the evidence or completely misdirected itself in construing the evidence available to record perverse findings.

20. In the above view of the matter, when reasonable compensation payable to the land owners or the owners of the superstructure has been assessed by the Tribunal, and there is no inherent defect in the said assessment of compensation, this Court would not interfere with the impugned award.

21. In addition to this, it is to be seen that the acquisitions were made in the year 1985-1986 and reference was made in the year 1991 which came to be decided in September, 1996. These appeals filed in the year 1996 have come up for hearing in the year 2016 i.e. after 20 years. Thus, about 30 years have elapsed after the acquisition. The SECL has operated the area to extract coal during last 30 years, therefore, it may not be a prudent or appropriate exercise of appellate powers to set aside the award at this stage only for remitting the matter to the District Judge to recalculate the amount of compensation.

22. For all the above reasons, we find no force in the above appeals which deserve to be and are hereby dismissed.

Sd/

(Prashant Kumar Mishra)
Judge

Sd/

(Chandra Bhushan Bajpai)
Judge

