

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.86 of 2014**

1. Daljit Singh Pahuja, S/o Raghuvir Singh Pahuja, aged about 40 years, R/o Mahavir Swami Chowk, Kawardha, Distt.Kabirdham (CG)
2. Surender Singh Pahuja S/o Raghuvir Singh Pahuja, aged about 38 years, R/o Mahavir Swami Chowk, Kawardha, Distt.Kabirdham (CG)
3. Radheshyam S/o Raru Ram Sahu, aged about 43 years, R/o Darripara, Kawardha, Distt.Kabirdham (CG)
4. Smt. Kamlabai w/o Radheshyam, aged about 42 years, R/o Darripara, Kawardha, P.S. Kawardha, Tahsil-Kawardha, Distt.Kabirdham (CG)
5. Rikhiram Sahu, S/o Shri Raruram Sahu, aged about 46 years, R/o Darripara, Kawardha, P.S. Kawardha, Tahsil Kawardha, Distt.Kabirdham (CG)
6. Gorelal S/o Ghurau Kumbar, aged about 56 years, R/o. Kumarpara, Kawardha, Distt.Kabirdham (CG)
7. Lakhan Singh S/o Gaya Singh Thakur, aged about 40 years, R/o Thakurpara, Kawardha, P.S. & Tahsil-Kawardha, Distt.Kabirdham (CG)
8. Kunjram Sahu S/o Shri Dayaram Sahu, aged about 42 years, R/o Darripara, Kawardha, P.S.-Kawardha, Tahsil-Kawardha, Distt.Kabirdham (CG)
9. Sevakram Chandrawanshi, S/o Samman Singh Chandrawanshi, aged about 42 years, R/o Dahri, P.S.-Pipariya, Tahsil Kawardha, Distt.Kabirdham (CG)
10. Shiv Kumar S/o Johi Sahu, aged about 35 years, R/o Dehri, P.S.-Pipariya, Tahsil Kawardha, Distt.Kabirdham (CG)
11. Lekhram S/o Dishouha Kumri, aged about 30 years, R/o Dehri, P.S.-Pipariya, Tahsil Kawardha, Distt.Kabirdham (CG)
12. Paramjeet Singh, S/o Kuldeep Singh, aged about 36 years, R/o Ward No.19, Kawardha, P.S. & Tahsil-Kawardha, Distt.Kabirdham (CG)
13. Bharti Chandrawanshi D/o Santosh Chandrawanshi, aged about 24 years, R/o Kawardha, Tahsil-Kawardha, Distt.Kabirdham (CG)

14. Vishnu Chandrawanshi, S/o Aamoli Chandrawanshi, aged about 37 years, R/o Dehri, P.S.-Pipariya, Tahsil Kawardha, Distt.Kabirdham (CG)
15. Ramchandra Kumri, S/o Dwarika Kumri, aged about 42 years, Occupation-Agriculturist, R/o Dehri, P.S.-Pipariya, Tahsil Kawardha, Distt.Kabirdham (CG)

---- Petitioners

Versus

1. State of Chhattisgarh through the Secretary, Public Works Department, Mantralaya, D.K.S.Bhawan, Raipur, District Raipur (CG)
2. Collector Kawardha, Distt.Kabirdham (CG)
3. Sub Divisional Officer and Land Acquisition Officer, Kawardha, Distt.Kabirdham (CG)

---- Respondents

For Petitioners	:	Mr. Awadh Tripathi, Advocate
For Respondents	:	Mr. Neeraj Jain, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

14/07/2016

1. The petitioners have filed the instant civil revision under Section 18(3) of the Land Acquisition Act, 1894 (henceforth "LA Act") questioning the order passed by the Collector declining to refer the dispute to the District Court for determination of the amount of compensation etc.
2. The Sub-Divisional Officer-cum-Land Acquisition Officer passed an award under Section 11 of the LA Act on 31.12.2011 granting compensation to the land owners and compensation was disbursed to the land owners/petitioners.

The petitioners herein vide Annexure P/5 accepted the compensation under protest and thereafter on 10.2.2012 they filed an application under Section 18 of the LA Act that the matter be referred to the Court for determination with regard to the amount of compensation and measurement of land etc.

3. Learned Collector by its order dated 10.7.2012 rejected the application holding that the present petitioners have obtained compensation without protest and therefore, the application cannot be referred to the Competent Court for enhancement of compensation.
4. Feeling aggrieved against that order, the petitioners/land owners have preferred this revision.
5. Mr.Awadh Tripathi, learned counsel appearing for the petitioners/land owners, would submit that the learned Collector is absolutely unjustified in rejecting the application of the petitioners under Section 18 of the LA Act for referring the matter to the District Judge for determination of fair compensation holding that compensation amount has already been accepted by the petitioners without protest. Since compensation has been accepted by the petitioners under protest, which is apparent from the payment-sheet (Annexure P/5) filed along with the revision petition, the impugned order be set aside and the Collector be directed to refer the matter

to the Competent Court for proceeding in accordance with law.

6. Mr. Neeraj Jain, learned Government Advocate appearing for the respondents/State, would submit that the petitioners have accepted compensation without protest and therefore, application under Section 18 of the LA Act was not maintainable and it has rightly been rejected by the learned Collector.
7. I have heard learned counsel for the parties, considered the rival submissions made therein and gone through the documents annexed with the revision with utmost circumspection.
8. The petitioners have filed compensation distribution sheet showing payment of compensation of the land acquired for Rajnandagaon to Raipur Road, Village Chhirha P.H.No.26, Tahsil Kawardha, District Kabirdham. A careful perusal of the distribution sheet would show that most of the petitioners have obtained compensation under protest by writing, “विरोध सहित चेक पाया”. However, the learned Collector rejected the application filed by the petitioners under Section 18 of the LA Act holding that the land owners have obtained compensation without protest and they have accepted the compensation and therefore, they are not entitled for reference to the Competent Court for determination of fair amount of compensation etc.

under Section 18 of the LA Act.

9. The law in this regard is no longer res-integra and it stands authoritatively decided by Their Lordships of the Supreme Court in their number of judgments. Few of them may be noticed herein for profitably:-

- (i) In the matter of **Ajit Singh and others vs. State of Punjab and others**¹ it has been held by Their Lordships of the Supreme Court that receipt of the amount of compensation by the claimants/land owners would not dis-entitle the land owners for enhanced amount of compensation. Para 5 of the report states as under:-

“5.....Inasmuch as the appellants have filed an application for reference under Section 18 of the Act that will manifest their intention. Therefore, the protest against the award of the Collector is implied notwithstanding the acceptance of compensation. The District Judge and the High Court, therefore, fell into parent error in denying the enhanced compensation to the appellants.”

- (ii) Thereafter, in the matter of **Wardington Lyngdoh and others vs. Collector, Mawkyrwat**² it has been held by Their Lordships of the Supreme Court that the petitioners having received the compensation without protest are not entitled to seek reference under Section 18 of the Act.

1 (1994) 4 SCC 67

2 (1995) 4 SCC 428

- (iii) Similarly in the matter of **Steel Authority of India Limited vs. Sutni Sangam and others**³ the Supreme Court has followed the principle of law laid-down in **Ajit Singh** (supra) and held that owner of the land has a right to receive just compensation. Para 55 of the report states as under:-

“55. An owner of a land has a right to receive just compensation. He, having regard to his human right to access to justice as has been declared by the International Covenant on Economic, Social and Cultural Rights on 10-12-2008 should be given an opportunity to make a reference. A person may get opportunity to get a reference only when he is informed about the making of an award.”

- (iii) Recently, in the matter of **V. Chandrasekaran and another vs. Administrative Officer and others**⁴ Their Lordships of the Supreme Court relying upon the earlier decision of **Wardington Lyngdoh** (supra) have held that receipt of the compensation amount under protest is a condition precedent for making an application under Section 18 within the limitation prescribed under the Act.

- 10.** Applying the law laid down by Their Lordships of the Supreme Court in the aforesaid cases for making reference under Section 18 of the LA Act to facts of the case would show that the petitioners have obtained compensation under protest and thereafter made an application under Section 18 of the LA Act

3 (2009) 16 SCC 1

4 (2012) 12 SCC 133

seeking reference to the competent Court for enhancement of compensation which itself would manifest their intention to make reference and protest against the award of the Collector and further more the petitioners have obtained compensation under protest, therefore, the learned Collector is absolutely unjustified in rejecting the application seeking reference to the competent Court for enhancement of compensation under Section 18 the LA Act.

- 11.** As a fall out and consequence of the aforesaid discussion, the revision is allowed and the order impugned is hereby set aside. The Collector, Kabirdham is directed to make a reference to the competent Court within two weeks from the date of receipt of a copy of this order and the District Judge after receiving the reference decide the same within six months from the date of receipt of reference in view of the fact that award was passed on 21.12.2011. No order as to cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-