

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 212 OF 2016

NTPC Limited Lara Super Thermal Power Project, Through Hriday Mondal, S/o Nani Gopal Mondal, aged about 53 years, Additional General Manager (Land Acquisition), NTPC Lara Super Thermal Power Project, Chhapora, Tahsil Pussoure, District Raigarh (Chhattisgarh). (Note:- In the Writ Petition the Appellant NTPC Limited was not a party, however, as a necessary and interested party, the present Writ Appeal is being filed).

... Appellant

Versus

1. Pushpendra Nath Rathore, S/o Shri Chedilal, aged about 40 years, R/o Railway, Bangalapara, near Jagannath Mandir, Raigarh, Tahsil and District Raigarh (C.G.)
2. State of Chhattisgarh, through the Secretary, Department of Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Mandir Hasod, District Raipur (Chhattisgarh).
3. District Collector, Collectorate, Janjgir Champa (Chhattisgarh)
4. Sub Divisional Officer (Revenue), Dabhra, District Janjgir Champa (Chhattisgarh)
5. Tahsildar, Dabhra, District Janjgir Champa (Chhattisgarh)
6. Shri A. K. Upadhyay, Tahsildar, Dabhra, Dist. Janjgir Champa (Chhattisgarh)

... Respondents

For Appellant	:	Dr. N.K. Shukla, Senior Advocate, along with Mr. B.D. Guru, Advocate.
For Respondent 1	:	Mr. Amrito Das, Advocate.
For Respondent-State	:	Mr. Y.S. Thakur, Dy. Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Deepak Gupta, C.J.

07/07/2016

1. This writ appeal by the NTPC is directed against the order dated 24.2.2016 passed in Writ Petition (C) No. 83 of 2016 by the learned Single Judge allowing the said writ petition filed by Respondent No.1 (hereinafter referred to as the 'writ petitioner').

2. In view of the decision which we propose to take, we are not going into the merits of the case.

3. The case of the writ petitioner was that he had purchased agricultural land measuring 0.05 acres situating at Khasra No. 662/4 at Village Saradih, Block & Tahsil Dabhra, District Janjgir-Champa, vide registered sale deed dated 2.8.2013. On the basis of the said sale deed, the name of the writ petitioner was duly mutated in the revenue records on 31.8.2013. After the mutation had been attested in favour of the writ petitioner, proceedings were started to review the mutation order passed in his favour.

4. The Tahsildar initiated proceedings for review of the earlier mutation order on 2.5.2015. Permission to review was granted by the senior officer on 5.5.2015 and the Tahsildar vide order dated 25.5.2015 reviewed the earlier mutation order dated 31.8.2013.

5. Aggrieved by the orders dated 5.5.2015 and 25.5.2015, the writ petitioner filed the writ petition and the same has been allowed only on the ground that the Sub Divisional Officer (Revenue) who granted permission to review, did not hear the petitioner before granting permission to review.

6. It is contended by Dr. Shukla, learned Senior Counsel for the Appellant, that no hearing is required at that stage.

7. From the records, we find that both in the order dated 5.5.2015 and in the last order passed, it is clearly mentioned that the review has been sought because this land was proposed to be handed over to the NTPC. The writ petitioner was aware of this order. Therefore, it was incumbent upon him to have made the NTPC a party to the writ petition. A party who challenges the order claiming that there is a violation of the

principles of natural justice must also ensure that while challenging the order it arrays the affected party as a respondent.

8. We are of the view that the NTPC should have been heard in the matter and therefore we set aside the judgment of the learned Single Judge only on this ground and remit back the matter to the learned Single Judge. The writ petitioner is directed to implead the NTPC as party so that the NTPC may file its reply and the learned Single Judge after hearing the parties shall decide the case on its own merits. In the meantime, status quo with regard to possession and nature of the land shall be maintained by the parties.

9. The writ appeal stands accordingly disposed of.

Sd/-
(Deepak Gupta)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge