

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 208 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. Smt. Santosh Sharma W/o Rajesh Sharma, aged about 54 years, R/o Raigarh Road, Dharamjaigarh, Tahsil Dharamjaigarh, District Raigarh (Chhattisgarh).
2. Ku. Rakhi Sharma, D/o Rajesh Sharma, aged about 24 years, R/o Raigarh Road, Dharamjaigarh, Tahsil Dharamjaigarh, District Raigarh (Chhattisgarh).
3. State of Chhattisgarh, through the Secretary, Department of Revenue, Mahanadi Bhawan, Mantralaya, Naya Raipur, Mandir Hasod, District Raipur (Chhattisgarh).
4. District Collector, Collectorate, Janjgir Champa (Chhattisgarh)
5. Sub Divisional Officer (Revenue), Dabhra, District Janjgir Champa (Chhattisgarh)
6. Tahsildar, Dabhra, District Janjgir Champa (Chhattisgarh)
7. 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 Respondents 1 & 2	:	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. 77 of 2016 by the learned

Single Judge allowing the said writ petition filed by Respondents No. 1 and 2 (hereinafter referred to as the 'writ petitioners').

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 petitioners was that they had purchased agricultural land measuring 0.06 acres situating at Khasra No. 573/1 at Village Saradih, Block & Tahsil Dabhra, District Janjgir-Champa, vide registered sale deed dated 22.11.2013. On the basis of the said sale deed, the name of the writ petitioners was duly mutated in the revenue records on 10.3.2014. After the mutation had been attested in favour of the writ petitioners, proceedings were started to review the mutation order passed in their 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 14.7.2014.

5. Aggrieved by the orders dated 5.5.2015 and 25.5.2015, the writ petitioners 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 petitioners 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 petitioners were aware of this order. Therefore, it was incumbent upon them 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 petitioners are 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