

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1705 of 2016

- Rajkumari Panjawani W/o Shri Kanahiya Lal Panjawani, Aged About 65 Years R/o Infront Of Old Bus Stand, Ward No. 4, P. O. & P. S. Simga, District Baloda Bazar Bhatapara (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur (Chhattisgarh)
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1726 Of 2016

- Prithpal Singh Bhatia S/o Late Shri Sardar Kulwant Singh Bhatia, Aged About 59 Years R/o Tilda Road, Ward No. 11, P. S. Simga, District Baloda Bazar Bhatapara (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur (Chhattisgarh)
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1706 Of 2016

- Hardeep Singh Bhatia S/o Late Sardar Kulwant Singh Bhatia, Aged About 52 Years R/o Tilda Road, Ward No. 11, P.S. Simga, District

Balodabajar- Bhatapara, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur, (Chhattisgarh)
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1710 Of 2016

- Paramjeet Kaur BhJatia W/o Shri Prithpal Singh Bhatia, Aged About 57 Years R/o Tilda Road, Ward No 11, P.S. Simga, District Baloda Bazar Bhatapara Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur, (Chhattisgarh)
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1713 Of 2016

- Pawan Kumar Sonker S/o Late Shri Sitaram Sonker, Aged About 50 Years R/o Ward No.6, Nagar Panchayat Simga, P.O. & P.S. Simga, District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District

Raipur, (Chhattisgarh)

2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1714 OF 2016

- Paretan S/o Late Shri Ledga @ Anandram, Aged About 62 Years R/o Ward No. 6, Kilapara, P.O. & P.S. Simga, Nagar Panchayat, Simga, District Baloda Bazar Bhatapara (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur, (Chhattisgarh)
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1712 OF 2016

- Manaram Sonker S/o Late Khorbahara Ram Sonker, Aged About 52 Years R/o Ward No. 15, P. S. & P. O. Simga, District Baloda Bazar & Bhatapara (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhavan, New Raipur, Village Rakhi, District Raipur (Chhattisgarh)
2. The Collector, Baloda Bazar, District Balodabazar - Bhatapara Chhattisgarh
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara) District Baloda Bazar Bhatapara (Chhattisgarh)

---- Respondent

And

WPC No. 1709 Of 2016

- Dwarika Prashad S/o Late Mannulal Barie, Aged About 55 Years R/o Ward No. 7, Nagar Panchayat Simga, P.S. & P.O. Simga, District Baloda Bazar - Bhatapara Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahandi Bhawan New Raipur, Village Rakhi, District Raipur Chhattisgarh
2. The Collector, Baloda Bazar, District Baloda Bazar- Bhatapara, (Chhattisgarh)
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga (Bhatapara), District Baloda Bazar- Bhatapara, (Chhattisgarh)

---- Respondent

And

WPC No. 1724 Of 2016

- Jaheer Mohammad S/o Late Shri Anamuddin Mohammad, Aged About 50 Years R/o Ward No 9, Naya Para, Nagar Panchayat Simga, P.O. & P.S. Simga, District Baloda Bazar & Bhatapara Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of Revenue, Mahanadi Bhawan, New Raipur, Village Rakhi District Raipur Chhattisgarh
2. The Collector, Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga Bhatapara District Baloda Bazar Bhatapara Chhattisgarh

---- Respondent

And

WPC No. 1725 Of 2016

1. Bahal S/o Late Derha Sonkar, Aged About 55 Years (Wrongly Mentioned In The Application) R/o Ward No 06, Sonkar Para Nagar Panchayat Simga, P.S. Simga, District Baloda Bazar

Bhatapara Chhattisgarh

2. Manharan Sonkar, S/o Late Derha Sonkar, Aged About 49 Years
R/o Ward No 06, Sonkar Para, Nagar Panchayat Simga, P.S. Simga,
District Baloda Bazar & Bhatapara Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through Its Secretary, Department Of
Revenue, Mahanadi Bhawan, New Raipur, Village Rakhi District
Raipur Chhattisgarh
2. The Collector, Baloda Bazar, District Baloda Bazar Bhatapara
Chhattisgarh
3. The Sub Divisional Officer Cum Land Acquisition Officer, Simga
Bhatapara District Baloda Bazar Bhatapara Chhattisgarh

---- Respondent

For Petitioners
For Respondent /State

Mr. Yogesh Pandey, Advocate
Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

11/7/2016

1. Heard.
2. The petitioners have preferred the aforementioned writ petitions seeking quashment of the orders dated 25.01.2016 (common date in the all the writ petitions) passed by the Collector, Baloda Baza- Bhatapara, rejecting their applications under Section 18 of the Land Acquisition Act, 1894 (in short "the old Act"). They have also prayed for a direction to the respondents to acquire the land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short "the Act, 2013") and thereafter, to calculate fresh award under the Act, 2013.

3. It is argued by learned counsel for the petitioners that although the award was passed on 01.04.2013, but the same was signed by the Collector on 24.07.2013, therefore, the award is deemed to have been passed on the said date. Referring to Section 24(2) of the Act, 2013, it has been stated that where the amount of compensation has not been paid or possession has not been obtained by the Government, the land acquisition proceeding under the old Act would lapse with liberty to the State Government to initiate fresh acquisition proceeding.
4. Section 24(2) of the Act, 2013 would apply in such cases, where, the award has been passed more than 05 years back or more prior from the date of coming into force of the said Act, 2013 i.e. w.e.f 01.01.2014 and possession has not been obtained or compensation has not been paid.
5. In the case at hand, even if we accept the petitioners' argument that the Collector has signed the award on 24.07.2013, it is not a case where the award was passed more than 05 years back, therefore, Section 24(2) of the Act, 2013 has no application.
6. The next contention is about the Collector's orders dated 25.01.2016 rejecting the petitioners' applications under Section 18 of the old Act for referring the matter to the District Court for determination of the issue of enhancement of compensation.
7. In the orders impugned passed by the Collector, it has been observed that the petitioners have preferred the applications after more than 02 years from the date of award and since the calculation of amount of compensation has been made in accordance with the guidelines, the applications under Section 18

of the old Act cannot be referred to the District Court.

8. When this Court pointed out to the proceeding recorded by the Land Acquisition Officer on 30.04.2015 directing issuance of notice under Section 12(2) of the old Act, learned counsel for the State has no other option but to reiterate what is recorded in the order sheet
9. Proviso (b) to Section 18(2) of the old Act provides that an application for referring the matter to the District Court for determination of the amount of compensation, can be made within 06 weeks of the receipt of the notice from the Collector under Section 12(2) or within 06 months from the date of the Collector's award whichever period shall first expire.
10. Undeniably, the applications under Section 18 of the old Act were preferred on 06.07.2015. Although the petitioners have not stated as to on what date they received the notice under Section 12(2), however, the seal of the copying Section of the District Collectorate available on page 14 of the paper book would indicate that the petitioners moved such applications on 18.06.2015, therefore, at least on the said date, the petitioners were aware of the order dated 30.04.2015. If this date i.e. 18.06.2015 is treated as the date on which, the petitioners became aware about the notice under Section 12(2) of the old Act, the applications under Section 18 of the old Act moved on 06.07.2015 & 15.07.2015 respectively, are within the period of 06 weeks as provided under proviso (b) to Section 18 (2) of the old Act and thus, the Collector has committed an error apparent on the face of the record to reject the applications on the ground that it has been preferred after 02 years from the date of award.

11. *Ex consequenti*, the impugned orders passed by the Collector on 25.01.2016 are set-aside and the Collector is directed to refer the petitioners' applications under Section 18 of the old Act, 1894 for adjudication by the District Court.

12. Let the needful be done by the Collector within a period of 06 weeks from today.

13. Consequently, all the writ petitions are allowed to the extent indicated above.

Sd/-

Judge

(Prashant Kumar Mishra)

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