

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2477 of 2016

- Bulauram Patel S/o Bedsai Patel, Age About 70 Years R/o Village Chaple, Tahsil Kharsiya, District Raigarh Chhattisgarh

---- Petitioner

Versus

1. Sub Divisional Officer Cum Land Acquisition Officer Kharsiya, Dsitirct Raigarh Chhattisgarh
2. The Collector, Raigarh, Distirct Raigarh Chhattisgarh
3. Bramha, S/o Lakeshwar Patel, Age 70 Years R/o Village Chaple, Tah Kharsiya, District Raigarh Chhatisgarh
4. Bhojlal Patel, S/o Parasnath Patel, Age 35 Years R/o Village Chaple, Tah Kharsiya, District Raigarh Chhatisgarh

---- Respondent

And

WPC No. 2481 of 2016

- OshRam Patel S/o Magluram Patel, Age about 50 years, R/o Village Chaple, Tah.-Kharsiya, District Raigarh (CG)

---- Petitioner

Versus

1. Sub Divisional Officer Cum Land Acquisition Officer Kharsiya, District Raigarh Chhattisgarh
2. The Collector, Raigarh, District Raigarh Chhattisgarh
3. Bramha, S/o Lakeshwar Patel, Age 70 Years R/o Village Chaple, Tah Kharsiya, District Raigarh Chhatisgarh
4. Anirudh Patel S/o Trilochan Patel, Age 37 years, R/o Village Chaple, Tah Kharsiya, District Raigarh Chhatisgarh

---- Respondent

For Petitioner

Mr. Amit Sharma, Advocate

For Respondent /State

Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

4/10/2016

1. Heard.
2. The matter pertains to entitlement or apportionment of the award amount fixed by the competent authority i.e. SDO (Revenue)-cum-Land Acquisition Officer, Kharsia District Raigarh in the proceedings under the National Highways Act, 1956 (in short "the Act, 1956").
3. It appears the petitioners own land bearing Khasra No.105/02 and 105/03 respectively, which was initially included in the plan for widening/four-laning/construction of National Highways, however, while preparing the award, the compensation has been assessed in the name of private respondents, who have encroached over the land belonging to the petitioners. The compensation has been assessed on presumption that the private respondents are occupants of the part of *Abadi* land of the village, whereas, according to the petitioners, they are not in possession of any part of *Abadi* land but the private respondents had occupied the petitioners' land, which has been included in the area falling for construction of National Highway.
4. Mr. Amit Sharma, learned counsel for the petitioners, would vehemently argue that the petitioners having moved representations before the SDO(R)-cum-Land Acquisition Officer or before the Collector, as the case may be, the matter

should have been referred to the Principal Civil Court of original jurisdiction in terms of Section 3H(4) of the Act, 1956, however, the competent authority has failed to do so.

5. Having heard learned counsel for the parties and on perusal of the documents, it is revealed that the private respondents have been found entitled to compensation on the ground that they are in occupation of some part of *Abadi* land, which has been used for construction of National Highway. The compensation has been assessed under Section 3G of the Act, 1956 by publication in the newspaper published on 13.07.2016 (Annexure P/3) despite the fact that much before the said date, the petitioners have moved representations before the SDO(R) or Collector, as the case may be.
6. Since this Court is not posted with the facts as to whether the competent authority has passed any order on the representations moved by the petitioners in January 2016, but somehow the award has already been passed, therefore, at this stage of land acquisition proceedings, the only remedy left for the petitioners is to move a properly constituted application before the competent authority under Section 3H(4) of the Act, 1956 for referring the matter to the Principal Civil Court of original jurisdiction to decide the issue about entitlement or apportionment of compensation in between the petitioner and the private respondents in each of the writ petitions.
7. Let the petitioners move such application within a period of 04 weeks from today before the competent authority. On such application being preferred, the competent authority shall refer

the matter to the Principal Civil Court of original jurisdiction within a further period of 04 weeks and thereafter, the Principal Civil Court of original jurisdiction shall decide the matter in accordance with law at the earliest.

Sd/-

Judge

(Prashant Kumar Mishra)

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