

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 867 of 2016**

1. Uwaasi Wd/o Late Sukman, Aged About 70 Years R/o Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
2. Malti, Wd/o Late Singhdu, Aged About 50 Years R/o Patelpara, Village Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
3. Gurmati, W/o Sonsai, Aged About 40 Years R/o Nagarnaar, Tahsil Jagdalpur, District Bastar, Presently At Aamaguda, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
4. Padmani Besra, W/o Sridhar Besra, Aged About 45 Years R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
5. Maan Sai, S/o Sonu, Aged About 50 Years R/o Patelpara, Village Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
6. Kapil Das, S/o Late Shatruhan Das, Aged About 46 Years R/o Patelpara, R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
7. Mangal Dei, Wd/o Mano, Aged About 60 Years R/o Village Nagarnaar, Tahsil Jagdalpur, District Bastar (Chhattisgarh)

---- Petitioners**Versus**

1. State of Chhattisgarh Through The Secretary, Ministry Of Revenue, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. National Mineral Development Corporation Ltd., Through Its Chairman/ Director, Nagarnaar Steel Plant, Nagarnaar, District Bastar (Chhattisgarh)

---- Respondents

For Petitioners	:	Shri BP Sharma, Advocate with Shri Sameer Oraon, Advocate
For Respondent No.1/State:		Shri UNS Deo, GA for the State
For Respondent No.2	:	Shri Vaibhav Shukla, Advocate
		Shri S.R. Kurre, Sub-Divisional Officer(R), Jagdalpur, District Bastar is also present

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board**

30/11/2016

1. Petitioners are "*Bhuria Tribals*", residing at village Nagarnaar, Tahsil Jagdalpur, District Bastar. Sometimes in the year 1977-78 each one of them were allotted lease of about 5 acres of land for agricultural purposes over the land bearing old Khasra No.85/1, 130/1, 737/1 and 376/1. The petitioners remained in possession and were cultivating the land throughout these years. In settlement proceedings initiated in the year 1994-95 under the provisions of Chhattisgarh Land Revenue Code, 1959 (for short 'the Code, 1959'), the settlement officer issued notification of the proposed settlement. The assessment proceedings were completed in terms of the procedure prescribed under Section 75 to 91-A of the Code, 1959. It is said that in the settlement proceedings, out of these 7 petitioners, 6 did not participate, therefore, they being lessee of government land and were not coming forward to claim possession or entitlement, their lands were entered in the settlement record as government land. Under Section 85 of the Code, 1959, the term of settlement is to be fixed by the Government which shall not be less than 30 years, therefore, the settlement still continues.
2. The NMDC proposed to erect a steel plant in the concerned area for which the State Government proceeded to acquire land, however, the land belonging to the petitioners being entered in the record as government land, the same were allotted to the NMDC by order dated 29.09.2001.
3. It is informed by Shri B.P. Sharma, learned counsel for the petitioners that at the time of issuance of lease in the year 1977-78 about 181 persons were granted lease as would be clear from the original record produced before this Court. It is said that out of the said 181 persons, about 140 of them have been granted compensation upon acquisition of land and thus, about 43 persons still remained to be paid compensation.

4. Shri Vaibhav Shukla, learned counsel for the NMDC would submit that as per their record available with the NMDC 145 persons have been granted compensation, which may also include 181 persons who were granted lease.
5. In course of hearing, learned State counsel would take this Court through the entire chapter of the Code, 1959 dealing with settlement of rent, however, this Court does not find any such provision providing that in the event any cultivator fails to appear before the settlement officer at the time of settlement proceedings, his land would either vest with the Government or the revenue entries would be changed. Learned State counsel has made a very fair statement that since the term of settlement is at least 30 years, which means the settlement is still continuing, if directed by this Court, the State Government or the Sub-Divisional Officer (R), as the case may be, may invoke the provisions contained under Section 89 of the Code, 1959 to make necessary enquiry about the petitioners' entitlement to the land to ascertain as to whether any change in the revenue entry is needed. He would submit that if the petitioners have been ejected contrary to the provisions of Section 182 of the Code, 1959, appropriate orders would be passed under Section 89 and thereafter the petitioners would be paid compensation in accordance with law. Learned State counsel would also state that the land belonging to the petitioner Nos. 6 & 7 have not been taken over for the Nagarnaar Steel Plant and was therefore outside the purview of acquisition proceedings. He would submit that petitioners No.6 & 7 are, therefore, at liberty to occupy their lands.
6. Let the authority competent under Section 89 of the Code, 1959 initiate the proceedings to correct errors and complete the same after giving opportunity of hearing to the petitioners, within a period of three months.

The Sub-Divisional Officer (R) shall thereafter propose to acquire the land and after obtaining the orders from the State Government shall complete land acquisition proceedings and pay compensation to the petitioners, at the earliest, preferably within the next six months.

7. Accordingly, the writ petition stands disposed of.

Sd/-

Judge
Prashant Kumar Mishra

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