

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1249 of 2016**

- P.L. Dubey, S/o Dwarika Prasad Dubey, aged about 52 years, R/o Village Gram Post Nariyera, P.S. Akaltara, District Janjgir-Champa (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department of Irrigation, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)
2. Collector, District Janjgir-Champa, Chhattisgarh.
3. Sub Divisional Officer (Revenue), Janjgir, District Janjgir-Champa (C.G.)
4. K.S.K. Mahanadi Power Company, Village Nariyara, Janjgir, District Janjgir-Champa (C.G.)

---- Respondents

For Petitioner	:	Ms. Renu Kochar, Advocate
For Respondents-State	:	Shri Shashank Thakur, GA for the State
For Respondent No.4	:	Shri Ashish Shrivastava, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****02/11/2016**

1. Petitioner's application for determination of compensation of the damage suffered by him on account of erection of high power transmission tower on his land has been rejected by the Collector, Janjgir-Champa with finding that it has no jurisdiction to determine such compensation.
2. In the matter of **Santosh Kumar Rathore & Ors. Vs. State of Chhattisgarh & Ors. {W.A. No.169/2013}** together with other connected writ petitions, decided by this Court on 12.04.2013, it has been held by this Court in para 6 to 8:-

“6. Proviso to rule 3(1) of the Rules provides that, on the objection raised by an owner or an occupier of any building or land, the District Magistrate or the Commissioner of Police or any other authorised may stay any work or ask the work to be removed or altered. He could also fix compensation under sub-rule (2) of rule 3 {rule 3(2)} of the Rules.

7. The Owners – Occupiers have raised question of fact. This can be raised under proviso to rule 3(1) of the Rules. In these circumstances, it is appropriate that they should raise it first before the authority entitled to consider it. Proviso to rule 3(1) provides three different officers. There is nothing to show as to who has been authorised and as the District Magistrate is the incharge of the district, it would be appropriate that the Owners – Occupiers may file a representation before the District Magistrate of the concerned district.

8. In view of the above, the representations may be filed before the concerned District Magistrate and in case such representations are filed, then they may be decided by the concerned District Magistrate by a speaking order, if possible, within three months from the date of receipt of the representations. The Owners- Occupiers will file certified copy of this order; other necessary documents and duly stamped self-addressed envelope along with their representations. The concerned District Magistrate after taking decision will communicate the same to them.”

3. In view of the observations made by the Division Bench, the Collector/District Magistrate, Janjgir-Champa has committed an error of jurisdiction by refusing to entertain the application for determination of amount of compensation.
4. For the foregoing, the impugned order passed by the Collector/District Magistrate, Janjgir-Champa on 16.11.2015 is set aside and the matter is remitted back to the Collector for determination of compensation. The District Magistrate shall complete the proceedings within a period of three months from the date of submission of certified copy of this order.
5. Accordingly, the writ petition stands disposed of.

Sd/-

Judge
Prashant Kumar Mishra

Ashu