

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2427 of 2016**

- Smt. Saybani W/o Shri Durjen Amaat, Aged About 65 Years R/o Village- Munderkhet, P.O. Bilaimunda, P.S.- Hingir, Tah & Distt. Sundergarh (Odhisaa)

---- **Petitioner****Versus**

1. Sub Divisional Officer Cum Land Acquisition Officer Raigarh, Distt. Raigarh, (Chhattisgarh)
2. The Collector, Raigarh, Distt. Raigarh, (Chhattisgarh)
3. Smt. Surubali Khadiya, W/o Harishanker, D/o Late Kunu, Mother Late Nidra Khadiya, Aged 45 Years, R/o Village Loing, Raigarh, Tahsil Raigarh, Distt. Raigarh, (Chhattisgarh)

---- **Respondent**

For Petitioner : Shri Amit Sharma, Advocate.
 For Respondents 1 & 2 : Shri Arun Sao, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****03/10/2016**

1. The Land Acquisition Officer, Raigarh has passed the impugned order refraining from disbursing the land acquisition award amounting to Rs.8,46,094/- to the petitioner on the ground that there is dispute concerning title of the land and partition suit is pending in the Court of 2nd Civil Judge, Class-2, Raigarh bearing

Civil Suit No.33-A/2014.

2. It is argued that the Land Acquisition Officer should have referred the matter for adjudication to the District Judge under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act, 1894') instead of staying disbursement.
3. In a given case, if the party moves an application under Section 30 of the Act, 1894, the concerned Collector is entitled to refer the matter, however, when civil suit is already pending between the parties, the Land Acquisition Officer has not committed any illegality by refusing to disburse the amount of compensation which relates to a land for which civil suit concerning title is pending between the parties. Since apportionment of the amount is dependent upon extent of share allotted to the parties by decree in partition suit or otherwise, this Court sitting under Article 226 of the Constitution is not entitled to issue a direction to the Land Acquisition Officer to disburse the amount to one of the parties.
4. It is argued that the petitioner is suffering from cancer, therefore, she needs the said amount for her treatment.
5. Solution to the legal interest of the petitioner is to be found out within the legal framework and not on the basis of sympathy. The petitioner, if so advised, may move before the concerned trial Court

where the civil suit is pending for early disposal or if the parties reach to the settlement in the partition suit, it will give quietus to their entitlement or share in the property to facilitate early disbursal of the amount under the land acquisition award by the land acquisition officer.

6. For the present, this Court does not find any good ground to interfere with the order passed by the land acquisition officer. The writ petition stands disposed of subject however to the above observations.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve