

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**FAM No. 236 of 2016**

1. Ramkishan Pal S/o Ramdas Pal, Aged About 57 Years
R/o Lalkhadan, P.H.No.40, Tahsil & District Bilaspur,
Chhattisgarh(Plaintiff)

---- Appellant**Versus**

1. Sub Divisional Officer & Land Acquisition Officer
(Revenue) District Bilaspur, Chhattisgarh
2. Executive Engineer, Public Works Department Bridge
Construction Division, District Bilaspur,
Chhattisgarh(Defendants)

---- Respondents

For Appellant Shri Satish Chandra Verma, Advocate
For Respondent/State Shri Arun Sao, Dy. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra &**Hon'ble Shri Justice R.C.S. Samant****Order On Board****22/03/2017**

1. Appellant owns an area admeasuring 2016 sq.ft. at
village Lalkhadan, Tahsil & District Bilaspur, out of which
an area admeasuring 966 sq.ft. (approx.) was acquired
for construction of Railway Over Bridge at Howrah-
Mumbai Rail Route Km 915/20-22 on National Highway
No.49, Bilaspur-Raigarh Road.

2. On the plea that the remaining area has become unfit for human dwelling and on some other grounds, the appellant moved an application before the concerned Collector under Section 18 of the Land Acquisition Act, 1894 (for short 'the LA Act') for enhancement of the amount of compensation. When the said application was not referred for adjudication to the Civil Court, the appellant preferred WPC No.29 of 2015 (**Ramkishan Pal v. State of Chhattisgarh & Another**), which was disposed of by this Court by order dated 12-1-2015 directing the Collector, Bilaspur, to consider the application moved by the appellant herein under Section 18 of the LA Act and refer the same to the Court having jurisdiction over the matter, if the application is maintainable and submitted within time.
3. When reference was made and the 1st Additional District Judge, Bilaspur, adjudicated the matter, the appellant prayed for enhancement of the amount of compensation as also for rehabilitation.
4. In the present appeal, the office has raised an objection regarding non-payment of adequate Court fees.

5. Shri Saitsh Chandra Verma, learned counsel appearing for the appellant, would submit that the appellant had wrongly filed the application under Section 18 of the LA Act, which was not maintainable for enhancement of the compensation for the area which was not acquired because the compensation would be enhanced for the area which is under acquisition and not for any additional area.
6. Shri Verma would further submit that for the present the appellant may be permitted to withdraw the appeal with liberty to initiate duly constituted proceedings for the remaining area.
7. In **Shiv Kumar Sharma v. Santosh Kumari**¹, the Supreme Court has said that the Civil Court does not grant liberty to file another suit or proceeding, therefore, in this appeal we cannot reserve liberty in favour of the appellant and more so because liberty can be prayed for to initiate any action before any other legal forum on the same cause of action and for the same subject matter, but in the present case, on the appellant's own showing

¹ (2007) 8 SCC 600

he is making a prayer in respect of an additional area, which was not the subject matter of acquisition, therefore, it is for the appellant to work out his remedy in accordance with law and no liberty is needed for that purpose.

8. Accordingly, the appeal is dismissed as withdrawn with the observations as stated *supra*.

Sd/-

Sd/-

Judge

Prashant Kumar Mishra

Judge

R.C.S. Samant

Gowri