

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition No.2526 of 2006**

1. Ram Prasad, S/o. Late Belas, aged about 46 years, Kumhar, R/o. Vill. Ramanujganj, District Sarguja (CG)
2. Vijay Kumar S/o. Gyani Ram, Aged about 32 years, Occupation Agriculture, By Caste-Kumhar, R/o. Village Bhawarmal, P.S. Ramanujganj, Tahsil Pal, District Sarguja (CG)

---- Petitioners

Versus

1. The State of Chhattisgarh Through Secretary, Department of Revenue, D.K.S. Bhawan, Raipur (CG)
2. The Land Acquisition Officer Pal, Head Office at Ambikapur, District Sarguja (CG)
3. The Collector Sarguja Ambikapur, District Sarguja (CG)
4. The Sub-Divisional Officer (B&R) Sub-Division Ramanujganj, District Sarguja (CG)

---- Respondents

For Petitioner	:	Mr.A.K.Prasad, Advocate
For Respondents	:	Mr.P.K.Bhaduri, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board**11/12/2017

1. The petitioners have filed this writ petition challenging the order dated 25.5.1999 (Annexure P/1) passed by the Land Acquisition Officer, Ambikapur in Land Acquisition Case No.7/A-82/76-77.
2. Learned counsel for the petitioners would submit that the order dated 25.5.1999 passed by the Land Acquisition Officer, Ambikapur is unsustainable and bad in law as award has not been passed. Therefore, the writ petition be allowed and the Land Acquisition Officer, Ambikapur be directed to pass a final award in respect of the land of the petitioners. He would rely upon the judgment of the Supreme Court in the matter of

Pune Municipal Corporation and another Vs.

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Harakchand Misirimal Solanki and others¹ and Union of India and others Vs. Shiv Raj and others².

3. On the other hand, learned Government Advocate for the respondents/State would submit that the land was taken with the consent of the petitioners, which is duly recorded in order dated 28.11.78, thereafter the petitioners have filed Civil Suit No.2-A/90 claiming compensation of ₹ 441601/-, which has been dismissed for want of jurisdiction.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
5. It is apparent on face of record that the land in question was taken over by the Land Acquisition Officer, Ambikapur with the consent of the petitioners/their ancestors way back on 28.11.78, but when compensation was not paid to them, they filed suit for recovery of an amount of ₹ 441601/-, which has been dismissed on the ground that Civil Court has no jurisdiction to entertain the suit for compensation. However, granted liberty to approach the appropriate Court. Thereafter, the petitioners approached the Land Acquisition Officer, Ambikapur under Section 18 of the Land Acquisition Act, 1894 (hereinafter called as 'the Act of 1894'). The Land Acquisition Officer, Ambikapur by order dated 25.5.1999 dismissed the application holding it to be barred by limitation and in view of the order dated 30.6.1997 the application is not maintainable.

1 (2014) 3 SCC 183

2 (2014) 6 SCC 564

Against the order dated 25.5.1999, they preferred civil revision being Civil Revision No.1944 of 99 (Ram Prasad and another Vs. The State of M.P. and another). That revision was dismissed as withdrawn on 16.11.2005 with liberty to agitate the matter before the appropriate Court though revision was maintainable. Thereafter, this writ petition has been filed by the petitioners herein challenging the order dated 25.5.1999 and in writ petition additional relief was prayed that the Land Acquisition Officer be directed to pass a final award. This relief was neither in original writ petition filed on 28.2.2006 nor in revision petition. It was inserted by way of amendment granted on 5.7.2006 enlarging the relief which was never claimed earlier.

- 6.** There is State amendment in Section 18 of the Act of 1894 which provides as under:-

“(3) Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court, within the meaning of section 115 of the Code of Civil Procedure, 1908.”

- 7.** The impugned order is revisable, but the petitioners have already withdrawn revision petition and filed this writ petition.
- 8.** Since the petitioners are running from pillar to post for grant of compensation from 28.11.78 and the jurisdiction lies with the Collector under Section 18 of the Act of 1894, the order dated 25.5.1999 has been passed by the Land Acquisition Officer, Ambikapur, who has no jurisdiction to consider the

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application under Section 18 of the Act of 18794. Therefore, the impugned order is set aside. The matter is remitted to the Court of Collector, Ambikapur (Surguja) for deciding the application filed by the petitioners under Section 18 of the Act of 1894 afresh after hearing the parties within three months from the date of receipt of a copy of this order.

- 9.** The writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-