

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 666 of 2017**

Goverdhan Prasad Patel S/o Late Shri Ram Prasad Patel, Aged About 71
 Years R/o Village Kukda, Tahsil Masturi, P. S. Seepat, P. O. Mahuda,
 District Bilaspur, Chhattisgarh. P I N 495559 **---- Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue,
 Mahanadi Bhawan, Ministry, New Raipur, District Raipur, Chhattisgarh. P I
 N 492001
2. The Collector, Bilaspur, District Bilaspur (Chhattisgarh)
3. The Sub Divisional Officer & Land Acquisition Officer, Bilaspur, District
 Bilaspur (Chhattisgarh) **---- Respondents**

For Petitioner	:	Mr. Alok Kumar Dewangan, Advocate
For State	:	Mr. Prasoon Bhaduri, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/03/2017**

Heard on admission.

1. By this petition, under Article 226 of the Constitution of India, the petitioner has prayed for direction to settle the dispute regarding measurement of land, amount of compensation, person to whom it is payable and the apportionment of the compensation among the person interested and award on current rate payable as per market value and thereafter acquire the land.
2. The petitioner has also prayed that a direction be issued to cancel the entire proceeding of acquisition of land of the petitioner and farmers till the dispute raised by the petitioner by way of the application under Section 18 of the Land Acquisition Act, 1894, is finally decided by learned District Judge. The third

relief sought by the petitioner is for issuance of a direction to the respondent authorities to set aside the award dated 24.04.2012 passed by the Collector and for passing fresh award after determination of the Court.

3. The petitioner had earlier filed a petition ventilating a grievance that the land in question was acquired by the State by passing an award dated 24.04.2012 without complying with the provisions of Section 12(2) of the Land Acquisition Act, 1894 (for short "the Act of 1894"). According to the petitioner, the award was passed without informing the petitioner, therefore, he was not in a position to know the date of award and therefore, he could not file an application under Section 18 of the Act of 1894 seeking reference of the dispute to the District Court.

4. This Court vide its order dated 01.08.2013 held that the period of six months would commence from the date of knowledge of the award.

5. The only relief granted by the Court was that as the application of the petitioner was pending before the Collector for referring the dispute to the District Court, the Collector is directed to refer the dispute to the District Court for determination of the dispute as provided under the provisions of law. Except this, no other relief was granted to the petitioner much less any order setting aside the award.

6. It appears from the records that the order of the Court was not complied with, which led to filing of contempt petition, which was disposed off vide order dated 13.01.2017, taking into consideration that though belatedly, an order of reference was made by the Collector on 06.12.2016. Though, the validity of the order of reference was sought to be assailed in contempt proceeding, it was held that issue cannot be decided in the contempt petition and in case, there is any defect in the reference, the Collector must ensure that the defect be removed, if pointed out by the District Judge.

7. Thereafter, the petitioner was given notice to collect the amount of compensation. At this stage, the petitioner has filed this second petition seeking the reliefs referred to above.

8. The only issue which survives for consideration after the order was passed in earlier round of litigation is with reference to the provision contained in Section 18 of the Act of 1894. Apparently, the Collector has already made reference. The petitioner has chosen not to challenge the legality and validity of the order of reference by filing revision under Section 18(3) of the Act of 1894 (as amended vide C.P. Act No.2 of 1922 in relation to State of Madhya Pradesh).

9. The submission of learned counsel for the petitioner is that till the dispute on a reference made under Section 18 of the Act of 1894 is decided, the respondent be directed to cancel the entire proceeding of acquisition of land of the petitioner and farmers. Further submission is that the award is bad in law therefore, a direction be issued to set aside the award and fresh award be passed after determination by the Court on the reference made under Section 18 of the Act of 1894.

10. Learned counsel for the State opposes the prayer by submitting that legality and validity of award cannot be gone into in the second round of litigation and the only issue requiring determination is on those aspects which are within the jurisdiction of the Civil Court on the reference made under Section 18 of the Act of 1894 and the petitioner has not assailed the legality and validity of the order of reference by filing any separate revision under the law.

11. The petitioner may have assailed the legality and validity of the award passed way back on 24.04.2012, on various grounds in the earlier round of litigation, perusal of order passed earlier by this Court on 01.08.2013 shows that only a limited relief was granted to the petitioner, to the extent that petitioner's application for making reference under Section 18 of the Act of 1894 shall be considered and the Collector shall refer the dispute to District Court for determination of dispute. Therefore, now in the second round of litigation, no new ground of challenge is permissible under the law to assail legality and validity of the award, subject only to determination by the Civil Court on aspects permissible under Section 18 of the Act of 1894.

12. Moreover, the petitioner has not assailed legality and validity of the order of reference made by the Collector. The prayer of the petitioner that till the reference

is decided, the award of acquisition proceeding should be allowed, if I may say so, is bereft of any merit and not referable to any provision of land acquisition act. It appears that after the Collector passed the order of reference and the petitioner was offered compensation, instead of accepting the compensation amount, the petitioner have filed this petition to wreck up the issue earlier raised in the writ petition referred to herein above

13. Therefore, on these considerations, no relief can be granted to the petitioner except that the Court, to which reference has been made, shall do well to decide the dispute referred to it as early as possible.

14. With the aforesaid observations, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
J U D G E