

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 963 of 2016

- Siyambar S/o Mayaram, Aged About 75 Years, Caste Teli, R/o Village Manpur, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue & Disaster Management, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur (Chhattisgarh)
2. State Of Chhattisgarh, Through The Secretary, Public Work Department, Mahanadi Bhawan, Naya Raipur, Revenue & Civil District Raipur (Chhattisgarh)
3. Collector, Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
4. Land Acquisition Officer And Sub Divisional Officer (Revenue) Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
5. Tehsildar Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
6. Executive Engineer, Public Work Department, (Bha/Sa), Division Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)

---- Respondents

And

WPC No. 966 Of 2016

- Smt. Akbari Khatoon W/o Yahiya, Aged About 40 Years, Caste Muslim, R/o Village Manpur, Post, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue & Disaster Management, Mahanadi Bhawan Naya Raipur, Revenue & Civil District Raipur (Chhattisgarh).
2. State Of Chhattisgarh, Through The Secretary, Public Work

Department, Mahanadi Bhawan Naya Raipur, Revenue & Civil District Raipur (Chhattisgarh)

3. Collector, Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
4. Land Acquisition Officer And Sub Divisional Officer (Revenue) Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
5. Tehsildar Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)
6. Executive Engineer, Public Work Department, (Bha/Sa), Division Surajpur, Revenue & Civil District Surajpur (Chhattisgarh)

---- Respondents

And

WPC No. 2168 Of 2016

- Ramsharan Ram S/o Late Bedsai Aged About 65 Years Caste Rajwar, R/o Village Tilsiwa, P.S. & Tehsil Surajpur, Revenue & Civil District Surajpur Chhattisgarh

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue & Disaster Management, Mahandi Bhawan Naya Raipur, Revenue & Civil District Raipur Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Naya Raipur Revenue & Civil District Raipur Chhattisgarh
3. Collector, Surajpur, Revenue And Civil District Surajpur Chhattisgarh
4. Land Acquisition Officer And Sub Divisional Officer (Revenue), Surajpur, Revenue And Civil District Surajpur Chhattisgarh
5. Tehsildar, Surajpur, Revenue And Civil District Surajpur Chhattisgarh
6. Executive Engineer, Public Works Department (Bha / Sa)division Surajpur Revenue And Civil District Surajpur Chhattisgarh

---- Respondents

For Petitioners	Shri Surfaraj Khan, Advocate
For Respondent-State	Shri R. K. Mishra, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/02/2017

1. These three writ petitions have been preferred for quashing the entire land acquisition case Nos.5/A-82/2013-14 in WPC No.963/2016, 9/A-82/2013-14 in WPC No.966/2016 & 8/A-82/2013-14 in WPC No.2168/2016 by the Land Acquisition Officer, Surajpur.
2. Admittedly, the subject land acquisition proceeding was initiated for quashing the land belonging to the petitioners, amongst land belonging to other holders, for construction of proposed Ring Road around Surajpur Town. The notification under Section 4 of the Land Acquisition Act, 1894 (henceforth 'the Act, 1894') was published in February-March 2014 and thereafter the final award under the Act, 1894 was passed on 20.03.2015. It is also not in dispute that after assessment of the amount of compensation, the petitioners have already received the amount. They are aggrieved by fresh acquisition proceeding under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (henceforth 'the Act, 2013'). In the return filed by the State, there is no whisper as to

whether the earlier award under the Old Act was withdrawn and thereafter fresh proceedings have been initiated. The step taken by the State appears an exercise in futility or an unnecessary exercise without appreciating or taking into account the provisions contained in Section 24 (1) of the Act, 2013.

3. Section 24 (1) of the Act, 2013 provides that notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, ----- where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or where an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.
4. In the case at hand, the notification under Section 4 of the Old Act was published in different modes, as provided under the Old Act, in the month of February-March 2014 i.e. after coming into force of the Act, 2013. Such acquisition under the Old Act is not permissible when the Act has been repealed by virtue of Section 114 (1) of the New Act. The proceedings were non-est from day one and it cannot be revived by initiating proceedings for determination of compensation under the New Act. If the State desires to acquire the land, it will have to follow the procedure prescribed under the Act, 2013.

5. At this stage, learned State counsel would submit that all the land holders have already been paid the amount of compensation determined under the impugned award, which comes to about 80% of the amount, which is likely to be assessed under the New Act. He would also inform that the Ring Road has already been constructed to some extent leaving the area involved in the present petitions.
6. In the facts and circumstances of the case and for the reason that the land acquisition proceedings drawn under the Old Act after coming into force of the New Act are *void ab initio*, the entire land acquisition proceedings in all the three writ petitions are quashed. If the petitioners desire to retain the land, they may deposit the entire amount of compensation received by them within a period of two months. If they desire to adjust the amount of compensation, which may be determined under the fresh acquisition proceedings to be drawn by the State Government under the New Act, the State would be entitled to use the subject land.
7. Accordingly, all the writ petitions are allowed to the extent indicated above.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA