

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP No. 4658 of 2004**

1. Aghori Das, S/o Pochua Das, Aged About 51 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No.6, District Janjgir Champa, Chhattisgarh.
2. Sain Das, S/o Garib Das, Aged About 45 Years, Village Kansa, Tehsil Dabhara, Patwari, Halka No. 6, District Janjgir Champa Chhattisgarh.
3. Noni Bai, W/o Rasia Das, Aged About 65 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No. 6, District Janjgir Champa Chhattisgarh.
4. Itwari Das, S/o Guli Das, Aged About 63 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No. 6, District Janjgir Champa Chhattisgarh.
5. Dalpat Das, S/o Munaku Das, Aged About 70 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No. 6, District Janjgir Champa Chhattisgarh.
6. Kachra Das, S/o Ghasia Das, Aged About 37 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No. 6, District Janjgir Champa Chhattisgarh.
7. Itwari Das, S/o Bhittal Das, Aged About 54 Years, Village Kansa, Tehsil Dabhara, Patwari Halka No. 6, District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh through its Secretary, Water Resources Department, DKS Bhawan, Raipur (C.G.)
2. The Executive Engineer, Water Resources Division, Janjgir-Champa, District Janjgir-Champa (C.G.)
3. The Sub Divisional Officer, Water Resources Sub Division Dabhra, District Janjgir-Champa (C.G.)
4. The Collector, Janjgir-Champa, District Janjgir-Champa (C.G.)
5. The Sub Divisional Officer cum Land Acquisition Officer (Hasdeo Project Sakti), Dabhra, District Janjgir-Champa (C.G.)

---- Respondents

For Petitioners	None
For Respondent-State	Shri Shashank Thakur, GA

Hon'ble Justice Mr. Prashant Kumar Mishra

Order On Board

22/11/2018

1. The writ petition is listed in a separate list of cases, which are more than 10 years old, therefore, it is taken up for disposal even though learned counsel for the petitioner is not present.
2. I have heard learned State counsel and perused the record.
3. Petitioners have prayed for a direction to the Land Acquisition Officer, Janjgir-Champa to forthwith calculate the interest on the award amount from the date of acquisition of petitioners' land i.e. from 1981-82 and the award amount be paid to the petitioners forthwith without causing unnecessary delay. Petitioners have also prayed for compensation for loss of agricultural crops from the date on which the land was illegally acquired by the Government till the date of publication of notification under Section 4 of the Land Acquisition Act, 1894 (henceforth 'the Act, 1894') together with interest @ 18% per annum.
4. The area belonging to the petitioners, which has been acquired by the State for Ghatoi Minor Irrigation Project, is not in dispute. However, despite the fact that construction of the project began in the year 1979 by obtaining possession of private lands including the land belonging to the petitioners, no acquisition proceeding was drawn, therefore, as on the date of filing of the writ petition, no award was passed. From the

proposed award passed on 29.04.2011, it would clearly appear that the Land Acquisition Officer proposed payment of interest @ 12% from the date of obtaining possession i.e. 30.01.1979 till 30.04.2011, however, the concerned Collector did not approve payment of interest from the date of obtaining possession and approved the award with such modification. The award which came to be passed eventually calculated interest only from 29.01.2010 till 30.04.2011. It is this final award which has been passed in favour of the land holder whose land was acquired in the year 2010-11, even though possession of their land was already taken over in the year 1979.

5. The provision pertaining to payment of interest being expressly prescribed in the statute, the said issue should not detain this Court for long.
6. Section 34 of the Act, 1894 provides for payment of interest. The provision is reproduced hereunder:-

“34. Payment of interest. - When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of ⁷² [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:

¹[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]”

7. It is thus apparent that the land holder is entitled to interest @ 9% from the date when the land was possessed by the State Government and if

compensation is not paid within one year, the rate of interest would be 15% payable from the date of expiry of the said period of one year on the amount of compensation or part thereof, which has not been paid or deposited before the date of such expiry.

8. The proposed award as prepared by the Land Acquisition Officer at the inception clearly proves that the State Government took possession of the land from the petitioners on 30.01.1979, therefore, the said date is taken as the undisputed fact for calculation of interest or the date of dispossession.
9. In the matter of **Abhay Singh Surana and others vs Secy., Ministry of Communication and others**¹, the Supreme Court has held that owner is entitled to interest from the date he loses possession. Thus, in view of the settled legal position, the petitioners are held entitled to interest @ 9% for one year from the date of dispossession i.e. 30.01.1979. Thereafter, the petitioners shall be entitled to interest @ 15% on the amount of compensation from 31.01.1980 till the date it was actually paid to them. The interest shall be calculated by the Collector (Land Acquisition), Janjgir-Champa forthwith and the payment of the amount be made to the petitioner within a period of 3 months from today. In the facts and circumstances of the case, the petitioners are also entitled to cost of Rs.10,000/-.
10. The writ petition is allowed.

Sd/-
Prashant Kumar Mishra
Judge

Nirala

¹ AIR 1987 SC 2177