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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 792 of 2018**

- Manbaso D/o Triveni Aged About 57 Years, Caste Gond, R/o Village Chanderpur, Post, P. S. And Tehsil Surajpur, Revenue And Civil District- Surajpur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan, Naya Raipur, Revenue And Civil District- Raipur, Chhattisgarh.
2. State Of Chhattisgarh, Through The Secretary, Public Work Department, Mahanadi Bhawan Naya Raipur, Revenue And 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 Work Department, (Bh/s), Division- Surajpur, Revenue And Civil District- Surajpur, Chhattisgarh.

---- Respondent**WPC No. 794 of 2018**

1. Basant Lal S/o Late Devsharan Sahu Aged About 48 Years Caste Teli,
2. Dayashankar Sahu S/o Late Devsharan Sahu Aged About 43 Years Caste Teli,

Both the petitioners are R/o Village Chanderpur Post, Police Station And Tehsil Surajpur Revenue And Civil District Surajpur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management Mahanadi Bhawan Naya Raipur, Revenue And Civil District Raipur Chhattisgarh.,
2. State Of Chhattisgarh Through The Secretary, Public Work Department Mahanadi Bhawan Naya Raipur Revenue And 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 Work Department (Bh/Sh) Division Surajpur Revenue And Civil District Surajpur Chhattisgarh.

---- **Respondent**

For Petitioners : Shri Surfaraj Khan, Advocate.

For Respondents : Shri PK Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

19/09/2018 :

1. The petitioner is challenging the award passed on 20.3.2015 and 28.12.2017, both under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the Act'), although challenge in essence is to

the subsequent award dated 28.12.2017 by which the amount of compensation paid to the petitioner in the earlier award to the tune of Rs.47,19,740/- has been reduced to Rs.33,07,517/-. The petitioner is also challenging the notice dated 22.1.2018 (Annexure-P/5) by which the Land Acquisition Officer has directed the petitioner to refund excess amount of Rs.14,12,223/-.

2. Arguments have been raised on either side in support of their respective contentions while attacking and defending the subsequent award, however, in view of the statutory provisions contained in Section 33 of the Act, I do not wish to elaborate upon the said contentions. Section 33 of the Act reads thus:-

“33. Corrections to awards by Collector. (1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall

be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government.”

3. Although notice under Section 21 was issued to the petitioner before passing of the subsequent award, however, indisputably hearing as contemplated under proviso to Section 33(1) of the Act has not been provided to the petitioner even though subsequent award which has reduced quantum of compensation prejudicially affects them in substantial manner. There being statutorily mandatory provision for following the principles of natural justice in the above stated provision, the subsequent award needs to be reconsidered.
4. Therefore, the matter is remitted back to the Land Acquisition Officer for passing fresh order in respect of quantum of compensation after affording opportunity of hearing to the petitioner as contemplated under proviso to Section 33 (1) of the Act. The contentions both legal and factual shall remain open to be agitated before the Collector/Land Acquisition Officer.
5. Till the matter is decided by the Collector after affording opportunity of hearing to the petitioner, the subject recovery shall remain in abeyance.
6. Facts of WPC No.794/2018 are similar except variations in the amount of originally assessed compensation and the subsequent

compensation. However, operative part of the order would remain same, therefore, this writ petition also is remitted back to the Collector in the same terms.

7. Consequently, both the writ petitions stand disposed of.

Sd/-
Judge
(Prashant Kumar Mishra)

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