

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on : 07.08.2018

Judgment delivered on : 30.08.2018

First Appeal (M) No. 100 of 2011

- Bhagwat, s/o Mahajan, aged about 46 years, Caste Satnami, R/o vilage Podidalha, Police Station and Tahsil Akaltara, District Janjgir Champa (CG)

---- Appellant

Versus

- State of CG through the Collector Janjgir Champa, District Janjgir Champa CG

---- Respondent

For Appellant	: Shri Abhishek Pandey, Advocate
For State/Respondent	: Ms M Asha, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu

CAV Judgment

1. This instant appeal is filed challenging the award dated 26.04.2011, passed by the Additional District Judge, Janjgir-Champa in Civil Miscellaneous Judicial Case No.27 of 2009, whereby the learned Court below dismissed reference application filed by appellant for enhancement of the award passed by Land Acquisition Officer, Janjgir-Champa.

2. Brief facts of the case are that appellant was owner of two pieces of land bearing Khasra No.537/10, Rakba 0.95 acre and Khasra No.776/34, Rakba 0.02 acre, total Rakba 0.97 acre land situated at village Podidalha, Patwari Halka No.3, tehsil-Akaltara, district Janjgir-Champa. These two lands were acquired by respondent/State for the purpose of construction of Karranala dam and against

the acquired land of appellant, compensation of Rs.90,654/- was granted to him vide award dated 29.03.2008 in land acquisition case No.8/ A-82/ 2006-07, along with other villagers.

3. The appellant, aggrieved by assessment of compensation by treating his land to be non-irrigated land, filed an application under Section 18 of the Land Acquisition Act, 1894 before the Collector, Janjgir-Champa, mentioning therein that his land was irrigated land and double crop. Therefore, the assessment of compensation of his land should be done on the basis of rate fixed for acquiring irrigated lands.

4. The Collector after considering the grounds raised in application filed by appellant under Section 18 of the Act of 1894, referred the case to the Court of Additional District Judge, Janjgir, district Janjgir-Champa. Learned Court below after receiving reference case from the Collector, Janjgir-Champa and also looking to the material available on records, framed as many as five issues for consideration.

5. Appellant herein submitted three documents (Ex.A/1, the sale transactions of 2005-06, Ex.A/2 and A/3 Kisht Bandi) showing the name of appellant as owner of land bearing Khasra No.537/10, Rakba 0.95 acre and Khasra No.776/34, Rakba 0.02 acre, situated at village Podidalha, Patwari Halka No.3, tehsil-Akaltara, district Janjgir-Champa. Appellant examined himself as AW-1 and one Babulal as AW-2, on his behalf.

6. On perusal of the documents submitted by appellant before Court below to prove his case, it is nowhere mentioned about the land acquired was irrigated land by any mode. It is only the oral statement made by appellant that his lands which are acquired are irrigated and double crop.

7. The appellant submitted revenue records showing his lands Khasra No.537/10, Rakba 0.95 acre and Khasra No.776/34, Rakba 0.02 acre, situated at village Podidalha, Patwari Halka No.3, tehsil-Akaltara, district Janjgir-Champa mentioned in Ex.A/2 which is Kishtband Khatauni but nowhere it is mentioned that the acquired two Khasra numbers are irrigated lands or double crop lands. Appellant filed Ex.A/3 which is of Khasra No.815/2 Rakba 0.534 acre shown to be irrigated land by Government, but that is of different Khasra number and not subject matter of challenge in this appeal or acquired by government. No document has been filed by appellant to prove his case. Learned Court below also considered the documents and evidence led by the appellant and rightly arrived at a conclusion that the appellant has filed only one document in the nature of Khasra entries (Ex.P/3) showing some land to be irrigated one, but that land belongs to different Khasra number which is not subject matter of this case.

8. No other ground has been raised by appellant in this appeal except the ground as discussed above.

9. In the facts and circumstances of the case, appellant failed to produce any cogent and reliable piece of evidence before learned Court below to prove his case that the lands acquired were irrigated lands. Learned Court below has not committed any error in dismissing the case of appellant.

10. In view of above, appeal being devoid of merit, is liable to be and is hereby dismissed.

11. No order as to costs.

Sd/-
(Parth Prateem Sahu)
JUDGE