

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 664 of 2018**

Dwarikesh Pandey S/o Shri Awadh Bihari Pandey Aged About 55 Years R/o Masanganj, Bilaspur, Disrtict- Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.
2. National Thermal Power Corporation Limited Sipat Through Its General Manager, Post Office Sipat, District- Bilaspur, Chhattisgarh.
3. The Collector Bilaspur, District- Bilaspur, Chhattisgarh.
4. Sub Divisional Officer Revenue, Bilaspur, Disrtict- Bilaspur, Chhattisgarh.
5. Sushil Kumar Agrawal R/o Saket Apartment, J-5, Near Agrasen Chowk, Bilaspur, Chhattisgarh.

---- Respondents

For Appellant	: Shri Anup Majumdar, Advocate.
For Respondent/State	: Shri Prasun Bhaduri, Government Advocate.
For Respondent/NTPC	: Dr. N.K. Shukla, Senior Advocate with Shri B.D. Guru, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****11/10/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard learned counsel for the parties.
2. By a common order dated 11.07.2018, two writ applications came to be decided since they arose out of common background.
3. In the present appeal even though the Appellant had been granted relief by the writ Court, by allowing the writ application and giving a direction upon National Thermal Power Corporation Limited ('NTPC') to make payment of compensation decided by the Additional Collector and @ 6% interest per annum for non-payment, due to land being made over to the NTPC despite the fact that the Appellant had a

legal right to continue on the piece and parcel of land by virtue of a lease to work the Limestone Mines.

4. So far as the present case is concerned, in Khasra No.954, area measuring 9.4 acres, the State Government had granted lease to the present Appellant as well as one Sushil Kumar Agrawal for lease for a period of five years, but renewal by another five years. The leases had been subsisting for a while and were liable for renewals.

5. The NTPC decided to set up Thermal Power Plant at village Seepat near Bilaspur. In terms of their need and request, large chunks of lands were acquired or made available to them by the State Government. Those delivery of possession to NTPC have no relevance to the present dispute. The dispute has arisen because NTPC wrote series of letters to the State Government especially the Collector, Bilaspur that they are in dire need of the land measuring 9.4 acres of Khasra No.954, in which, the leases were being worked, since it was coming in the way of setting up of their township.

6. Response of the Government is available on record. They clearly made it known to NTPC that there is difficulty in making available 9.4 acres of land since they are legal lessees, who are operating the lease for working a Limestone Mines for a long period of time and they will be put to loss if they are ordered to be removed and the land handed over to NTPC. Despite such communication including the implication having been made known to the NTPC, the NTPC insisted on the said land being allotted to them by the revenue authorities of the State.

7. Both the lessees i.e. namely, Dwarikesh Pandey and Sushil Kumar Agrawal thereafter approached the revenue authorities to assess the loss and quantify the same so that suitable compensation could be given to them for re-sitement or for winding up the business. Proceedings were initiated. Based on the inputs and

assessment, quantification had been done, but since the NTPC was not agreeing to the payments, writ applications came to be filed for a direction upon NTPC, which in the given facts, was allowed by the learned Single Judge, however, it did not satisfy the Appellant on one aspect.

8. The primary thrust of the argument on behalf of the Appellant is that the learned Single Judge should have awarded interest @ 15% on the unpaid amount of compensation by NTPC instead of 6%. The reason for demand of 15% on behalf of the Appellant is because this is what is provided for under the Land Acquisition Act. He draws analogy from the said legislation and wants this Court to modify the order of the learned Single Judge by enhancing the interest component from 6% to 15%.

9. Such a prayer is required to be negated at the very outset. The analogy which the counsel for the Appellant has tried to draw, is misplaced. The land of the Appellant was not acquired. The land belonged to the State Government and he was only a lessee. The lease had expired in his case, though there was provision for renewal. It can be inferred that one of the reason for non-renewal of lease was insistence by the NTPC to be given possession of that area as well.

10. In the above circumstances, since it was not a case of acquisition of land of the Appellant, but closure of the lease by non-renewal, therefore, the 6% interest which has been awarded by the learned Single Judge cannot be faulted with. Any analogy from the Land Acquisition Act is misplaced and illogical.

11. The appeal therefore stands dismissed being devoid of merit.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE