

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WP No. 2400 of 2002**

Sahadeo Prasad Patel, aged about 55 years, S/o Sampat Lal Patel,
R/o Village, Kawareepali, PO. Kamtee , Tahsil Dabara, District Janjgi
Champa, Chhattisgarh.

---- Petitioner

1. State of Chhattisgarh, through the Secretary, Water Resources Department, D.K. Bhawan Raipur, Chhattisgarh.
2. Superintendent Engineer, Minimata Bango Canal Division, Kharsia, District Raigarh, Chhattisgarh.
3. Executive Engineer, Bango Project Division Dabara, Tahsil Dabara, District Janjgir Champa, Chhattisgarh.
4. Sub Divisional Officer, Mini Dam Bango Division Dabara, Tahsil Dabara, District Janjgir Champa, Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Vishu Koshta, Advocate
For State	:	Mr. A.N. Bhakta, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****29/01/2019**

1. The grievance of the petitioner in the present writ petition was to the action on the part of the respondents in acquiring the land belonging to the petitioner for the construction of 4R minor canal. The respondents in their reply had taken a stand that the award under Section 11 under the Land Acquisition Act had already been passed on 31.07.2003. therefore the since the acquisition proceedings itself is complete the only remedy left for the petitioner was to assail the award and the writ petition was thus not sustainable.

2. The present writ petition was filed even before the final award was passed this court on 28.02.2003. had given an interim protection to the extent that the respondents were restrained from carrying out any construction activity over the private land of the petitioner. The said interim protection still stands good in the favour of the petitioner.
3. Pending the writ petition when the matter was taken for further consideration in the year 2018. The respondents have filed an additional return on 26.06.2018. wherein in paragraphs 7 & 8. Respondents have submitted as under:-

“7. Presently, it has been informed by the Sub Divisional Officer, Minimata Bango Canal Sub Division Dabhara District Janjgir Champa that the canal has not been constructed. A report to this effect has been prepared on 06.06.2018. Copy of the report dated 06.06.2018 is annexed herewith as Document-D.

8. It is further submitted that it has been informed by Sub Divisional Officer, Minimata Bango Canal Sub Division vide letter dated 16.05.2018 that although, lands were acquired but none of the affected persons have accepted compensation and it has been further informed vide letter 28.05.2018 that no construction has taken place over the land in question. Copies of the letters dated 16.05.2018 and 28.05.2018 are collectively annexed as Document-E.”

4. Subsequently, the respondents have filed another submission on the 23.01.2019 wherein again in paragraphs 2 & 3 ,the respondents have Stated as under:-

“2. It is respectfully submitted that, the Officer-in-Charge of the case has verified the land acquisition proceeding and relevant records relating to the acquisition, where he could not find any document which reveals that the possession over the land of the petitioner has been taken, thus, it appears that the possession of land of the petitioner vide Khasra No.423/2, 423/1 area 4.05 acres had not been taken and no construction has been made due to Interim Order passed by this Hon'ble Court. It is also relevant to mention here that, a fresh spot verification/panchnama has been prepared by the concerned Halka Patwari, who has also certified that, presently the possession of the land vide Khasra No. 423/1, is with the possession of Budeshwar and Khasra No. 423/2 is with Dev Kumar. Copy of the panchnama dated 14.01.2019 is annexed with filed herewith as Annexure Document-F, for kind perusal of this Hon'ble Court.

3. That, the answering respondents have already submitted additional return on or about 26.06.2018, where a report of Sub Divisional Officer, Minimata Bango Canal Sub Division has been filed vide Document-D, where it has been categorically stated that, Minor No.4 (Cancal) is not required to be constructed as an outlet has been provided/constructed for irrigation of that area. Therefore, the land of the petitioner is not required.”

5. In view of the aforesaid factual position as it stands and which is also not disputed by the respondent-State. So far as the petitioner still being in possession of the said land and that the respondents State has subsequently taken a decision not to construct the 4R Canal which was planned to be constructed over the land including the petitioner's land.
6. The entire acquisition proceedings so far as construction of 4R Canal would stand lapse in the light of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. For ready reference the provisions of Section 24(2) of the said Act, 2013 is reproduced herein under:-

“(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken all the compensation has not been paid the said proceedings shall be deemed to have lapsed and appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition

under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

7. In view of the aforesaid statutory provision and the stand of the State Govt. which they have taken in the subsequent pleadings that they have made before this court in the present writ petition, the acquisition proceedings in respect of the land belonging to the petitioner in question stands lapsed.
8. Accordingly, writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Jyoti/Ankit