

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CONT No. 50 of 2018**

- Smt. Kameshwari Dewangan W/o Ravi Kumar Dewangan Aged About 33 Years R/o Ward No.15, Near Maszid Tulsipur, Thana City Kotwali, Rajnandgaon, Tahsil And District Rajnandgaon, Chhattisgarh

---- Petitioner

**Versus**

- Samay Lal Executive Engineer, Publice Works Department, G.E.Road, Rajnandgaon, District Rajnandgaon, Chhattisgarh

---- Respondent

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| For Petitioner | : | Shri Ashok Patil, Advocate |
| For Respondent | : | Shri Amit Soni, Advocate   |

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**S.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava****Order On Board****11/11/2019**

This contempt petition has been filed by the petitioner alleging willful disobedience of order dated 04/05/2017 passed in WPC No.1621/2013.

2. Learned counsel for the petitioner argued that in the writ petition, a grievance was raised that a part of super-structure belonging to the petitioner on the land owned by him was demolished for widening of road without any compensation paid to him in any proceedings for acquisition of land. According to the petitioner, no proceedings for acquisition was ever initiated by the National Highway Authority of India.

3. In view of the statement made by learned State counsel that NHAI has not been arrayed as respondent and the road has already been constructed, this Court finally disposed off the writ petition with a direction to the petitioner to prefer

representation before the Executive Engineer, PWD, Rajnandgaon with the observation that the Executive Engineer shall examine the matter and if it reaches to the conclusion that super-structure was standing on petitioner's land on which, highway is made by NHAI, he shall forward the representation to the competent authority of NHAI, who is in-charge of widening of NH6. Further direction was that respondent No.6 (Executive Engineer, PWD, Rajnandgaon) or NHAI, as the case may be, shall thereafter proceed to demarcate the area belonging to the petitioner to find out as to whether or not, area belonging to the petitioner has been used in widening of road. If any part of petitioner's land has been used and any part of the building has been damaged, proper proceedings for grant of compensation to the petitioner shall be initiated in accordance with law. This Court also directed demarcation to be carried out within a period of three months.

4. The petitioner filed contempt petition alleging that the direction issued by this Court has not been fully complied with. He would argue that the compensation to the tune of Rs.2,18,859/- has been awarded only towards damage caused to the building but not towards use of his land for construction of National Highway. It is asserted on behalf of the petitioner that, though, in official records of acquisition, the land of the petitioner has not been mentioned, at the time of constructing road, at the spot, a strip of land has actually been included and road constructed thereon, for which also, the petitioner ought to have been paid compensation.

5. Upon notice issued to the respondents, reply has been filed in this contempt petition and it has been submitted that in compliance of letter in spirit of the order of this Court, at the spot, inspection was carried out and towards damage caused to the building of the petitioner, compensation of Rs.2,81,859/- has been paid. However, it has been asserted that the land of the petitioner has not been used for widening of the road and it is left open. According to the respondents, the petitioner's land has not been used for widening of the road. It is also submitted

that none of the records of acquisition includes petitioner's land for the purposes of acquisition. Therefore, it is argued that nothing more is required to be paid. There is clear assertion of respondent authorities that petitioner's land has not been acquired and it has also not been used for the purposes of construction / widening of National Highway and it is left open.

It would, thus, be seen that there is factual dispute as to whether petitioner's land admeasuring  $17 \times 15.9 = 270.3$  sq.ft. is actually included in widening of the road. But one thing is clear that it has not been acquired in any acquisition proceedings. As the respondents assert that they have not used petitioner's land admeasuring  $17 \times 15.9 = 270.3$  sq.ft. situated in khasra no.345/3 in patwari halka no.28, village – Motipur, the petitioner should not have any grievance and it is open for him to enjoy the said property. If any interference is caused in peaceful enjoyment of the land, it will be open for the petitioner to take appropriate remedy available to him under the law. The contempt petition is accordingly disposed off.

Sd/-  
**( Manindra Mohan Shrivastava )**  
**Judge**