

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 119 of 2008**

*{Arising out of Order dated 25/04/2008 passed in Writ Petition(C) No. 6790 of 2007 by
the learned Single Judge}*

1. Chaitan Choudhary S/o Raghunath Choudhary aged about 27 years Occupation- Agriculturist R/o Village Salihabhata, Block Tamnar, Tah. Gharghoda, Raigarh C.G.
2. Shyam Sundar Sav S/o Damodar Sav, aged about 45 years, Occupation- Farmer, R/o Vill. Tamnar, Tah. Gharghoda, Raigarh C.G.
3. Krishnalal Sav S/o Damodar Sav aged about 42 years, Occupation- Farmer R/o Vill. Tamnar Tah. Gharghoda, Raigarh C.G.
4. Bharat Lal Patel S/o Kamtanath, aged about 32 years, Occupation- Farmer, R/o Village Salihabhata Block Tamnar, Tah. Gharghoda, Raigarh C.G.

----Appellants**VERSUS**

1. State Of Chhattisgarh through Secretary, Department of Revenue, Mantralaya D.K.S. Bhawan, Raipur C.G.
2. Collector/ In-charge Land Acquisition Officer/S.D.O., Raigarh C.G.
3. Land Acquisition Officer/S.D.O. Raigarh, C.G.
4. Managing Director, Jila Vyapar & Udhayog Kendra Raigarh, C.G.
5. Messrs Jindal Power Ltd. Through Its Managing Director, Tamnar- Dist. Raigarh, C.G.
6. Naib Tahsildar, Tamnar, Dist. Raigarh C.G.
7. Station House Officer, Police Station- Tamnar, Dist. Raigarh C.G.

-----Respondents

For Appellants	:	None Present.
For Respondent-State	:	Mr. R.S. Baghel, Deputy A.G.
For Respondent No.5	:	Mr. S.S. Baghel, Advocate.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per P.R. Ramachandra Menon, Chief Justice.**

26/07/2019

1. The writ petition was filed by the petitioners challenging the Land Acquisition Proceedings, particularly, Section 4(1) notification issued under the Land Acquisition Act, 1894 (for short 'the Act, 1894') on 24-03-2007, Section 6 declaration dated 26-5-2007 and the award by the passed by the competent authority on 22-10-2007, on various grounds.
2. After hearing both the sides, placing reliance on the verdicts passed by the Apex Court in **Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd. & Ors.**¹, **State of Rajasthan & Others v. D.R. Laxmi & Ors.**², **Municipal Council, Ahmednagar & Anr. v. Shah Hyder Beig & Ors.**³, and **Swaika Properties Pvt. Ltd. & Anr v. State of Rajasthan & Ors.**⁴, holding that the Court shall not normally interfere with regard to the challenge against the Acquisition Proceedings, more so when possession has already been taken, the award has been passed, interference was declined and writ petition was dismissed, however, making it clear that it would be open for the petitioners to seek for reference in terms of the Section 18 of the Land Acquisition Act. This is under challenge in the present appeal.
3. Heard Mr. R.S. Baghel, Deputy Advocate General representing the State, Mr. S.S. Baghel, Advocate for respondent No. 5. There is nobody to represent the appellants.
4. On going through the proceedings and various orders passed by this Court at different points of time, it is seen that this matter was being adjourned because of submissions made before this Court that the issue

1 1996 (11) SCC 501

2 JT 1996 (9) SC 327

3 2000(2) SCC 48

4 JT 2008 (2) SC 280

involved herein with regard to challenge against the acquisition proceedings was still pending consideration before the Apex Court. It is seen that similar challenge was raised by some other aggrieved parties who were the owners of some pieces of land by filing a writ petition on the dismissal of the same, appeal was preferred as WA No. 1098/2012. The said appeal was considered alongwith other connected cases and they were dismissed as per a common order, which is stated as subjected to challenge before the Supreme Court by filing SLP(C) No. 17952/2015. It is further brought to the notice of this Court that the matter was listed before the Apex Court for final hearing, but is still pending as Civil Appeals No. 5225- 5226/2017.

5. Considering the facts and circumstances, this Court is of the view that no tenable ground is raised to disagree with the view that has already been taken by the Division Bench in WA No. 1098/2012. However since, the issue is pending before the Supreme Court, we decline interference and dismiss this appeal in terms of the Judgment in WA No. 1098/2012, making it clear that if any declaratory verdict comes to be passed by the Apex Court sustaining the challenge against the acquisition, it could be sought to be applied in the case of the appellants herein as well.
6. The writ appeal stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
 Chief Justice

Sd/-
(Parth Prateem Sahu)
 Judge