

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2306 of 2019**

Ashish Agrawal S/o Rajkumar Arawal Aged About 27 Years R/o Danipara,
Raigarh Tahsil And District Raigarh Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Revenue And Disaster Management, Mahanadi Bhawan Mantralay, Thana Naya Raipur, Tahsil And District Raipur Chhattisgarh.
2. The Collector And Officiating Dupty Secretary Of State Of Chhattisgarh Collectorate District Of Janjgir Champa, Tahsil And District Janjgir Champa Chhattisgarh.
3. Sub Divisional Officer (Revenue Cum Land Acquisition Officer Janjgir Champa Tahsil And District Janjgir Champa Chhattisgarh.
4. Executive Engineer Water Resources Division, Raigarh, Tahsil And District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner : Shri N. K. Malaviya, Advocate

For Respondent/State : Shri Rahul Jha, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****10/07/2019**

1. Heard
2. It is contended that an award was passed under the land acquisition on 22/11/2018. Learned counsel for the petitioner would submit that the petitioner way before the award was passed in 2018 has intimated to the authority that the subject land which was acquired has been partitioned

between the family members and separate rin pustika and revenue records were also filed and were placed on record. It is further stated that despite such application having been filed before the award was passed in the year 2017, ignoring the same the award has been passed which has serious consequences to the right of the petitioner as the portion of the apportionment in the award is deprived. It is stated that the petitioner has filed an application under Section 33 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred to as 'the Act of 2013') and such mistake can be very well be cured since application to this effect was already preferred to the land Acquisition officer, before the award was passed.

3. Learned State counsel referred to section 64 of the Act of 2013 and would submit that in case if the petitioner is not interested or not accepted the award and has right of apportionment, as claimed, an application can be made to the Collector who in turn shall refer it to the appropriate Authority. Section 64 of the Act reads as under:

64. Reference to Authority:- (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapter V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such

reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

4. Since the petitioner on the basis of document prima facie shows that the land which was acquired was subject of partition and the revenue document were placed, in the year 2017 itself but the same could not be considered. As of now petitioner has not accepted the award and further raised a dispute as to whom it is payable along with the apportionment of award. In facts of case this lis would be covered under Section 64 of the Act of 2013. The round of litigation at this stage can be avoided if the petitioner makes a reference under Section 64 of the Act of 2013 and invoke the jurisdiction before the Collector, therefore the liberty is given to the petitioner to make a written application to the Collector to invoke the provisions of Section 64 of

the Act of 2013 who in turn shall act accordingly, as has been referred in the Act of 2013.

5. It is further made clear that the ground raised in this writ petition at this juncture the same is not being adjudicated for the reason as stated above and the petitioner shall be at liberty to raise the grounds in future, if so advised. It is directed if the application so filed within a period of 30 days from today, the necessary compliance would be made. The Collector shall strictly follow the procedure laid down under Section 64 of the Act of 2015.
6. With such observation the petition is disposed of.

Sd/-
Goutam Bhaduri
Judge

Jyoti