

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 372 of 2014

Anant Kumar Gupta Aged About 65 Years S/o Late Ram Prasad Gupta R/o Main Road, Ward No. 08, Khairagarh, P.S. Khairagarh Distt. Rajnandgaon C.G.

---- Petitioner

Versus

- 1.State Of Chhattisgarh Through Its Secretary, Department Of Urban Administration, Mantralaya, Mahanadi Bhawan, Naya Raipur
2. The Collector, Distt. Rajnandgaon C.G.
3. The Chief Municipal Officer, The Municipal Council, Khairagarh, Distt. Rajnandgaon C.G.

--- Respondents

For petitioner- Shri Rajesh Kumar Kesharwani, Advocate.
For State-Shri Rajesh Singh, Dy.G.A.
For respondent No.3- Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

16/07/2019

Heard.

1. Instant petition has been filed for the reason that the petitioner owns a land bearing khasra No.598/2. He was served with a notice to remove his construction which was existing and thereafter the existing construction was removed and 162 sq.ft of land which belong to the petitioner was taken into sweep for widening of the road.
2. Learned counsel for the petitioner submits that the petition can be disposed of in view of the return filed by the Municipal Council wherein specifically it is admitted that the land of the petitioner of 162 sq.ft. has been taken over for widening of the road and compensation has been affixed.
3. Learned counsel for the Municipal Council would further submit that

widening of the road was carried out by the State and at the instance of the State, the list of affected persons was prepared and 83 persons were enlisted and entitlement of compensation of Rs.1,40,175/- was arrived at which was to be paid to the petitioner. The State has also filed its reply. The return of the State would show that construction by the petitioner was removed for widening of Rajnandgaon-Kawardha Main Road and the action was taken in the public interest as per the consent of public at large and he further submits that return says that since the construction has already been carried out, therefore petition has become infructuous.

4. Perusal of the record would show that admittedly the land of the petitioner was taken for construction of the road and the superstructure was demolished. As per return of the Municipal Council and report of the RI, 162 sq.ft of land was taken for widening of the road which also finds support from the return of the State. The reply of the Municipal Council further purports that as many as 83 affected persons were enlisted and the compensation which was entitled to them were calculated and in respect of the petitioner compensation amount of Rs.1,40,175/- was arrived at. Said contention is also supported by Annexure R-3 and report of the RI wherein all the names of the affected persons were enlisted alongwith their entitlement for the compensation. Therefore, in the circumstances the fact remains that the petitioner's land was taken without any lawful acquisition which would be against the spirit of Article 300 (A) of the Constitution of India. The petitioner cannot be deprived of his property otherwise than in due course of law. Since it is admitted that amount of compensation has already been arrived at and there is no serious dispute by the State in their reply that the land of the petitioner has not been acquired and compensation amount has already been settled, it is directed that concerned respondent shall pay compensation amount of

Rs.1,40,175/- to the petitioner within a further period of 60 days from the date of receipt of copy of the order. Petitioner shall also be entitled for interest @ 6% per annum from February 2014 till amount is paid.

5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE

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