

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2241 of 2019

1. Atul Kumar Mirani S/o Late Shanti Lal Mirani Aged About 52 Years
2. Smt. Kavita Mirani W/o Atul Kumar Mirani Aged About 50 Years
3. Vaibhav Mirani S/o Atul Kumar Mirani Aged About 16 Years Minor Through His Natural Guardian Mother Smt. Kavita Mirani (Petitioner No. 2),
4. Eakta Mirani D/o Atul Kumar Mirani Aged About 14 Years Minor Through Her Natural Guardian Mother Smt. Kavita Mirani (Petitioner No. 2),

All are R/o A/2 LIC Colony Near Krishan Complex, Mova Raipur District Raipur Chhattisgarh.

---- Petitioners

Versus

1. Union Of India Through Its Secretary, Ministry Of Road Transport And Highway, New Delhi.
2. National Highway Authority Of India Through Project Director And Project Implementation Unit 51/96, Behind BTI College Shankar Nagar Raipur Chhattisgarh.
3. Regional Officer National Highway Authority Of India, Anupam Nagar Raipur Chhattisgarh.
4. The Land Acquisition Officer Cum Sub Divisional Officer (Rev.) Raipur Chhattisgarh.

---- Respondents

For petitioners – Shri Akhilesh Kumar, Advocate.
For State- Smt. Astha Shukla, PL.
For respondent No.1- Shri Chetan Kumar, Advocate.
For respondent No.2- Shri Navin Shukla, Advocate appears on behalf of Smt. Fouzia Mirza, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

05/07/2019

Heard.

1. Learned counsel for the petitioners submits that in WPC No.1706/2019 and other connected matters orders were passed on 15/05/2019. He submits that similar order is required to be passed as the

factual issue involved in this petition is also same.

2. Same is not disputed by learned counsel for respondent No.2 that in matters of like nature, the orders have been passed on 15/05/2019.

3. Considering the same, following order has been passed earlier in WPC No.1706/2019 and other connected matters which are reproduced hereunder:-

“2. Leaned counsel for the petitioners would submit that by notification dated 04th July 2018 issued under the National Highway Act 1956, the lands of the petitioners were taken into sweep for construction of National Highway No.200/30. It is contended that thereafter the acquisition proceedings did not commence, instead, forcible possession was taken over and the road was constructed. It is stated that the authorities are deliberately avoiding the issuance of notification u/s 3D of the National Highway Act, 1956 and even before that vesting of land into the respondent Union of India and National Highway Authority, road has been constructed, therefore he submits that the petitioners may be adequately compensated for the acquisition made.

3. A perusal of documents would show that final notification u/s 3-A of the Act was made on 4th July 2018. The petitioners alleged that their lands were taken over and the construction of road has been made over their lands without initiation of acquisition proceedings or compensation thereof. It is not disputed that initially the notification was published on 04th July 2018. The objections having not been made, the authority should have issued the notification u/s 3D within one year but that procedure as appears has been sidelined. It has been stated that without acquisition, the road was constructed thereby the petitioners have been dispossessed.

4. It is settled proposition that the person cannot be deprived of his property otherwise than in due course of law. The course of law has been provided under the National Highway Act, 1956 for acquisition of land. Since it is alleged that construction of road has already been made, the respondents are directed to demarcate the affected land of the petitioners and thereafter commence and conclude the proceedings of compensation within a period of 9 months from the date of presentation of copy of this order. If it is found that the lands of the petitioners have been acquired without there being any compensation and the compensation is awarded, the same may be disbursed to the petitioners.

5. With such observation/direction, all these petitions stand finally disposed of.”

4. In view of the above, the order passed in WPC No.1706/2019 and other connected matters orders on 15/05/2019 will govern the parties of this instant petition. Accordingly, this petition is disposed of in exactly similar terms as quoted above.

Sd/-

(Goutam Bhaduri)

JUDGE