

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2258 of 2019

1. Fekuram Sonker, Aged About 44 Years, S/o Guhan Sonker,
2. Munni Bai, Aged About 36 Years D/o Guhan Sonker,
3. Basanti Bai, Aged About 34 Years, D/o Guhan Sonker,
4. Laxmi Bai, Aged About 32 Years, D/o Guhan Sonker,
5. Budhiyarini Bai, Aged About 70 Years, W/o Guhan Sonker,

Petitioner No.2 to 5 Through Power Of Attorney Holder Petitioner No.1
Fekuram Sonker,

All R/o Village Post Simga, District Baloda Bazar-Bhatapara Chhattisgarh.

---- Petitioners

Versus

1. Government Of India Ministry Of Road Transport And Highways,
Department Of Road Transport And Highways, Transport Bhawan -1,
Parliament Street, New Delhi - 75.
2. National Highways Authority Of India Through Project Director, Project
Implementation Unit Raipur, District Raipur Chhattisgarh.
3. Additional Collector / Arbitrator Balodabazar-Bhatapara, District
Balodabazar-Bhatapara Chhattisgarh.
4. Sub Divisional Officer (Rev) And Competent Authority Under The National
Highways, Act 1956 And Land Acquisition Officer, Simga, District
Balodabazar-Bhatapara Chhattisgarh.

---- Respondents

For Petitioners	:	Ms. Richa Pandey, Advocate
For Govt. of India/ Respondent No.1 & 2	:	Mr. B.Gopakumar, Asstt. S.G.
For State/Respondents No. 3 & 4.	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08.07.2019

Heard.

1. Learned counsel for the petitioners submits that in the bunch of petitions WPC No.2106 of 2019 and other connected matters, the order passed in WPC No.1850 of 2019 was adopted and the present petition is of similar nature, therefore, similar order may be passed.
2. Learned counsel appearing for the respondents do not dispute the fact and submits that similar order may be passed in this petition also.
3. The order passed in WPC No.1850 of 2019 and thereafter other similar matters reads as under :

“2. Perusal of the papers available in the record would indicate that pursuant to the land acquisition award under the National Highways Act, 1956 (in short “the Act, 1956”), the petitioners moved arbitration proceedings before the Arbitrator appointed under Section 3 G (5). The Arbitrator i.e. the Additional Collector passed the award(s) on different dates refusing to enhance the award amount. Challenging this award of the Additional Collector, the petitioners moved before the District Judge, Baloda Bazar under Section 34 of the Arbitration and Conciliation Act, 1996 (in short “the Act, 1996”). By order(s) dated 17.5.2018, the District Judge partially allowed the appeals and remitted the matter back to the Arbitrator for making a fresh award.

3. After the remand order was passed by the District Judge, the Additional Collector, Baloda Bazar instead of passing fresh award either enhancing or refusing to enhance the amount of compensation, referred the matter to the Land Acquisition Officer for recalculating the award amount vide order dated 17.1.2019. The Land Acquisition

Officer passed the impugned order on 3.5.2019 refusing to amend the original award thereby impliedly rejecting the petitioners' application for enhancement of the award amount.

4. The petitioners' counsel would contend that once the Arbitrator directed the Land Acquisition Officer to recalculate the amount of compensation admissible to the petitioners, the concerned SDO(R) committed serious error of law by not obeying the command of the Arbitrator.

5. Whether or not the SDO(R) should have followed the order passed by the Arbitrator or whether at the inception, the Arbitrator could have directed the Land Acquisition Officer to recalculate the amount of compensation is a matter to be seen by the Authority constituted under the Act, 1956 including the Arbitrator.

6. If the SDO(R) has failed to obey the order passed by the Additional Collector-cum-Arbitrator, the appropriate remedy for the petitioners under the Scheme of the Act, 1956 lies in moving before the concerned District Judge under Section 34 of the Act, 1996. In matters arising out of the proceedings under the provisions of the Act, 1996, the writ petition would not be maintainable. The Act, 1996 read with the Act, 1956 is a self contained code for initiation and completion of arbitration proceeding for enhancement of award amount.

7. Let the petitioners move before the concerned District Judge under Section 34 of the Act, 1996 to assail the order(s) passed by the concerned SDO(R) as also the order(s) passed by the Arbitrator i.e. the concerned Additional Collector.

8. If an application under Section 34 is moved by the petitioners, wherein, the challenge is also thrown to the Additional Collector's order(s) dated 17.1.2019, the same

shall be dealt with by the concerned District Judge on its own merits without raising the plea of limitation, provided the petitioners move before the District Judge within a period of 30 days from today.

9. *The writ petitions are disposed of."*

4. It is ordered accordingly.

Sd/-

Goutam Bhaduri
Judge

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