

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCONT No. 777 of 2019

1. Lakshmikuwar Gabel D/o Kushal Singh Aged About 60 Years Caste Gabel, R/o Parsa, Tahsil Malkharoda, District- Janjgir, Champa, Chhattisgarh.
2. Smt. Roopkuwar Gabel D/o Kushal Singh Aged About 58 Years Caste Gabel, R/o Kharsia, District- Raigarh, Chhattisgarh.
3. Smt. Sonkuwar Gabel D/o Kushal Singh Aged About 56 Years Caste- Gabel, R/o Chitakhatra, Tehsil- Kharsia, District- Raigarh, Chhattisgarh.

---- Petitioners

Versus

1. Yashwant Kumar Collector Raigarh District- Raigarh, Chhattisgarh.
2. Nand Kumar Choubey Sub Divisional Officer (Revenue) Dharamjaigarh, District- Raigarh, Chhattisgarh (Contemnors)

---- Respondents

For Petitioner(s)	:-	Shri Govind Ram Miri, Advocate with Shri Basant Kaiwartya, Advocate.
For Respondents	:-	Ms. Naushina Afrin Ali, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

14/11/2019

1. Heard.
2. WPC No.1113 of 2019 was disposed of on 25.03.2019 directing the SDO (Revenue)-cum-Land Acquisition Officer to disburse the amount of compensation, in accordance with law by deciding the petitioners' representation within 3 months.
3. Petitioners are legal heirs of deceased Khushiyaal Singh, wrongly mentioned as Kushal Singh in the writ petition. According to them, the subject land was owned by Khushiyaal Singh, however, Khushiyaal Singh was dead on the date of passing of the award, therefore, they were entitled to receive the compensation but the same having not been disbursed the writ petition was preferred and thereafter the present contempt petition has been filed. It is stated that petitioners have not been disbursed and paid the compensation and their representation has been wrongly rejected.
4. Papers available in the record would reveal that Khushiyaal Singh was one of the share holders in land bearing Khasra No.25/1, 0.926 hectares. On the date of award in respect of 0.239 hectares out of the entire area of the said Khasra, name of Ram Singh son of Khushiyaal Singh and Kushi Bai

widow of Khushiyaal Singh were mentioned in the Revenue record, therefore, the award carried their name. At the time of disbursement of compensation it was found that Kushi Bai widow of Khushiyaal Singh has also died, therefore, the compensation was paid to the remaining persons in whose favour the award was passed. Petitioners' names were recorded in the remaining area of Khasra No.25/1 admeasuring 0.687 hectares vide order dated 23.07.2018 passed by the concerned Nayab Tehsildar. After recording of their name the petitioners are now claiming disbursement of compensation for the area acquired earlier.

5. Admittedly petitioners' names were not recorded in Revenue record at the time of passing of the award. Whether or not they were entitled to a share in the acquired land or whether by recording their name in the remaining area of the Khasra their interest has been protected by other share holders by way of allotting share in partition is a fact which cannot be determined in contempt jurisdiction. For this the petitioners are required to move before the Land Acquisition Rehabilitation and Re-settlement Authority constituted under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.
6. The petitioners are allowed 45 days time from today to move

before the concerned Collector under Section 64 of the Act. On such application being made the concerned Collector shall refer the matter to the Authority under Section 65 of the Act. The Authority shall then decide the reference after hearing all the necessary parties, within reasonable time.

7. It is ordered accordingly.
8. The contempt petition stands disposed of.

Sd/-
Prashant Kumar Mishra
Judge

Ankit